UC-NRLF
B 4 030 177
LB
5
C75
no.28

THE CITY SCHOOL DISTRICT

STATUTORY PROVISIONS FOR ORGANIZATION AND FISCAL AFFAIRS

BY

HARRY ERWIN BARD

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

Submitted in partial fulfilment of the requirements for the Degree of Doctor of Philosophy, in the Faculty of Philosophy, Columbia University

PUBLISHED BY
Teachers College, Columbia University
NEW YORK
1909

THE CITY SCHOOL DISTRICT

STATUTORY PROVISIONS FOR ORGANIZATION AND FISCAL AFFAIRS

BY

HARRY ERWIN BARD

Submitted in partial fulfilment of the requirements for the Degree of Doctor of Philosophy, in the Faculty of Philosophy, Columbia University

PUBLISHED BY
Teachers College, Columbia University
NEW YORK
1909

EDUC.
LIBRARY

Copyright, 1909, by Harry Erwin Bard

TABLE OF CONTENTS

PAGE

INTRODUCTION 7

PART I

A STUDY OF THE CITY AND THE CITY SCHOOL DISTRICT; THEIR RELATIONS TO EACH OTHER; THE RELATION OF BOTH TO THE STATE; THE NATURE OF THE CONTROL WHICH THE STATE EXERCISES OVER THEM

CHAPTER I

THE CITY

PAGE

The city-state 9
The city as an administrative district 9
The city in England—charter regarded as in the nature of a contract. 10
Movement towards local autonomy 10
Administrative control 11
The city in the United States—charter regarded as in the nature of a contract 11
Conception of charter as a contract abandoned 11
Uniform charters and administrative control in England 12
The city in the United States sacrificed to the solution of national questions and to party interests 12
Movements towards protecting the city from certain abuses 12
Constitutional provisions limiting the powers of the legislatures 13
Frequency and duration of legislative sessions 13
Legislative procedure 14
Legislative competence 14
Special legislation 15
Powers of legislatures to classify cities recognized by the courts 16
Attempts to evade constitutional provisions 16
Constitutional provisions for classification of cities 16
Cities classified 17
Aim of constitutional provisions 20
Legislative control over cities 21
The city an organization of enumerated powers 21
Functions of the city 22

CHAPTER II

THE CITY SCHOOL DISTRICT

Various agencies provided by the state for administration 26
The city school district defined 27

202438

PAGE
The relation of the city school district to the city 28
The city school district a municipal corporation 29
The relation of the city school district to the state 29
The city school district affected by constitutional provisions 29
The results accomplished through constitutional provisions 30
City school districts classified 30
Variations from regular classifications 33
Special charters 33

PART II

ORGANIZATION AND FISCAL AFFAIRS

CHAPTER I

ORGANIZATION

1. General Organization

Introductory 36
Various agencies classified 37
Various boards and officers 38
Officers and employees—distinction 38
Non-professional agents 39
State and county officers 39
Functionaries acting in ex-officio capacity 40
City officers 41

2. The Board of Education

Introductory 43
A corporate body 44
Composed of lay members 44
Number of members 44
Number of members provided for under general laws 46
Number of members in boards in the one hundred largest cities 47
Qualifications of members 49
Elective or appointive 50
Nominations 51
Time of renewal of membership 52
Tenure of members 53
Partial renewal of membership 54
Vacancies filled 54
Compensation of members 55
Removal of members 56
Organization required 57
Time of organization 57
Offices which may be filled by members 57
Custodian of school funds 58
Officers and employees—distinction 59
Professional officers commonly provided for 60

PAGE
Non-professional officers sometimes provided for 60
The board of education as a legislative body 61
Regular meetings 62
Special meetings 63
Standing committees 63

CHAPTER II

FISCAL AFFAIRS

1. Revenues

Introductory 65
Various sources 66
State apportionments 66
Local property tax 67
Maximum amount based upon valuation of property 68
Minimum amount to be provided 71
Amount to be provided determined by the board of education .. 72
Amount to be provided determined by other authorities 73
Disadvantages of this method 74
The New Jersey plan 75
The preparation of the annual estimates 76
Submitting the annual estimates to the taxing authorities 79
Bond issues 80
Conditions of 80
Consent of electors 80
Amount limited 81
Time of maturity, interest, denominations 82
Table showing limitations 83
Provisions as to maturity 83
Sinking fund 84
Management of sinking fund 85
Sale of school property 85
Conditions is 86
Interest on unappropriated balances 88
Provisions for depositories 88
Other sources of revenue 90
Provisions relative to temporary loans 91

2. Safe-keeping of School Funds

Treasurer 92
Duties and responsibilities 93
Disbursement of funds 94
Reports 95

3. Expenditures

The board of education initial control 95
Powers of the board of education enumerated 96

PAGE
Purposes for which expenditures may be made limited 97
Condition of expenditures prescribed 100
How expenditures may be authorized 101

4. Accounting

Funds disbursed upon order of the board of education 101
Accounting and auditing—distinction 102
Nature of provisions 103
Pre-auditing and after-auditing 104
Provisions for pre-auditing 105
Provisions for after-auditing 105
Expert accountants 107
Recent provisions in Pennsylvania 108
Inadequacy of provisions for 109

CHAPTER III

SOME OBSERVATIONS AND CONCLUSIONS 110

BIBLIOGRAPHY 114

THE CITY SCHOOL DISTRICT

INTRODUCTION

The aim of this study is primarily descriptive. Its purpose is to describe the city school district as it is found, with respect to certain important features. Probably the study will be best understood when regarded as composed of two parts: the first part attempting (1) to point out the relation of the city school district to the city, (2) to determine its relation to the state, (3) to show the nature of the control the state exercises over it; the second part aiming to show the provisions the state has made for the city school district with reference to its organization and fiscal affairs. It will be seen that the task which has been set is not an easy one. The subject is not one which lends itself readily to logical treatment. The first part can be treated adequately only when considered from the point of view of administrative law. But the aim of this study is practical, from the point of view of educational administration. A general understanding of the first part is, however, necessary to a full appreciation of the second part. The excuse for giving it here is that no student of administrative law has as yet presented it elsewhere. It is thought then pardonable that the practical aim be allowed to prevail even at the sacrifice of a possible full rounded development of a logical theme.

It follows, further, that the first part of this study is valuable here chiefly in so far as it contributes to a fuller understanding of the second part.

For various apparently satisfactory reasons it has seemed advisable to approach the study of the city school district through a brief study of the city. The city school district is intimately related to the city in many ways. Territorially it is frequently co-extensive with the city, and where it is not it contains a city within its corporate limits. It is sometimes provided for within the city corporation, and where it is not it is the same aggregation of people reincorporated exclusively for educational purposes. But whether the city school district is provided for within

the city corporation or is itself an independent corporation, it is as a municipal body subject in general to the same control as other municipal corporations. Quite commonly constitutional provisions and legislative enactments affect the city school district much as they affect the city. Whatever may be said regarding special legislation with reference to the city is in general applicable to the city school district as well. Further, the relation of the city school district to the state can best be appreciated through a study of the functions of the city with reference to the state.

The study of the city must necessarily be brief, and largely incomplete. It is the aim primarily to discuss only such features of the city as have a bearing upon the city school district. These may be briefly stated as (1) the relation of the city to the state, (2) the nature of the control the state exercises over the city, and (3) the city's functions. By a brief historical statement it is the purpose to show the position the city has occupied at different times and in different countries with respect to the state, and particularly the position the city has occupied and now occupies in this country in this respect. In the discussion of the movement towards limiting the powers of the state legislatures through constitutional provisions, it is aimed to show not only the character of these provisions, but also some of the results which have been effected through such provisions, particularly with regard to the matter of general legislation as opposed to special legislation. By a brief discussion of the functions of the city it is aimed to show the various functions which the city has discharged at different times as a city and as an agent of the state, and to indicate in a general way the functions which the city in this country is now permitted to discharge, in the one or in the other capacity.

It is not expected that the reader who is not familiar with administrative law will fully appreciate the various details involved in this study of the city, but it is hoped that he will receive an adequate impression of the general movement affecting the relation of the city to the state and particularly of the nature of the control exercised by the state over the city, and that he will make use of this impression in following the further discussion of the city school district.

PART I

A STUDY OF THE CITY AND THE CITY SCHOOL DISTRICT; THEIR RELATIONS TO EACH OTHER; THE RELATION OF BOTH TO THE STATE; THE NATURE OF THE CONTROL WHICH THE STATE EXERCISES OVER THEM

CHAPTER I

THE CITY*

The City-State. Historically, the city has occupied three more or less different and distinct positions in political society. In early Greek and Roman periods a type of city known as the City-State was common. Later cities of this type were to be found in Italy and in other parts of modern continental Europe. Hamburg, Bremen, and Lubeck in Germany are the only existing cities which approximate to this old type. The old City-State exercised not only such functions as are now usually ascribed to cities, but also many of those generally recognized as functions of the state. In general, the City-State exercised all the powers of a sovereign state, including those having to do with foreign and military affairs. In England or in the United States, no city has ever occupied the position of a City-State, and in general it may be said that the City-State has now in any country little interest save to the historian.

The City as an administrative district. At different times, in all the countries of continental Europe, the city has occupied

* For the material of this chapter the author has depended very largely upon the lectures in Municipal Science and Administration (Public Law 244) given by Professor Frank J. Goodnow in Columbia University in 1909. These lectures have not been published and no references can be given. Much of the same material may be found in Professor Goodnow's published volumes, and to these references are made. Other volumes bearing upon the subject are given in the bibliography. Any one interested in this phase of the subject should read the following in particular.

Goodnow, Municipal Home Rule and Municipal Problems.

Goodnow, City Government in the United States.

Goodnow, Principles of the Administrative Law of the United States.

Goodnow, Comparative Administrative Law.

the position of an administrative district, differing in no way from other administrative districts of the larger state. The Roman city in the time of Constantine was reduced from its position of independence and became merely an administrative district to be used by the superior government to further the interests of the state as a whole rather than those of the city in particular. After the fall of the Roman Empire the city began again to develop a large degree of independence in all parts of Europe, and in Italy not a few cities reached the proud eminence of city-states. But again in the later part of the fourteenth century there began in France a movement towards subjecting cities to the control of the central government, a movement that reached its climax in the Napoleonic scheme of administration which was incorporated in the great administrative act of 1890. There was a similar movement in other parts of continental Europe.

The City in England—Charter regarded as in the nature of a contract. In England, however, conditions were somewhat different. From a very early time the city in England has been subject to the control of the central government, as represented either by the Crown or by Parliament. The central government conferred upon the city, at first upon application and later *nolens volens,* a charter which was regarded as in the nature of a contract. The city was not recognized as having any rights not secured to it by virtue of the charter granted to it by the central government. The establishment of municipal governments in this country began under the influence of the system in England. The charters granted to the cities by the sovereign state were regarded, as in England, as in the nature of contracts.

By the beginning of the nineteenth century, in all important countries, the city was regarded only as an administrative district of the larger state, controlled by the central government in the interest of the state as a whole. In some instances, while retaining its identity, the city acted in all governmental matters not in its own right but as agent of the sovereign state; in other instances, its position differed not at all from that of other administrative districts of the state.

Movement towards local autonomy. With the Prussian Act of 1808 began a movement towards the recognition of the city

as having certain rights and duties as a city, in the exercise or performance of which the sovereign state need not interfere. This Act was followed by the Municipal Corporations Act of 1835 in England; by a series of acts beginning in 1830 and ending in 1884, in France; and by several similar acts in Italy, the most important of which was that of 1889. These acts do not, however, restore the city to the position of independence which it previously occupied; nor do they permit it to perform all the functions which it was accustomed to perform while occupying such position. Where these acts permit the city to participate in the earlier governmental functions, it participates as an agent of the state. The functions which it is permitted to exercise in its own right lie in an entirely new field created through the development of new conditions, industrial, economic, and social.

Administrative control. In Europe, in connection with the city's participation in governmental functions as an agent of the state, there were developed, by the state, systems of administrative control, which it has since very successfully exercised.

The City in the United States—Charter regarded in the nature of a contract. The municipal institutions of the United States were naturally borrowed from those in England as they existed prior to the adoption of the Municipal Corporations Act of 1835. The early colonial charters were, like the early English charters, regarded as in the nature of contracts entered into between the people of the city and the Crown, represented by the colonial government. After the United States secured its independence, charters of municipal corporations were granted by the legislatures of the states, and up to about the middle of the nineteenth century they were contained in special acts which affected only the city. These charters were still regarded, however, during this period, as in the nature of contracts, and were granted by the state legislatures only upon application in each case.

Conception of charter as a contract abandoned. About the middle of the nineteenth century the state legislatures, in the various states, began to pass special laws applicable to particular cities, without obtaining the consent of the cities. Thus the idea that charters were to be regarded as contracts was abandoned. From this time charters and all acts regulating city affairs were

regarded as ordinary acts of legislation, susceptible of amendment or repeal at any time at the pleasure of the legislature.

Uniform charters and administrative control in England. As has already been indicated, about this time there began in England a system of administrative control over municipal corporations. This system has been successfully developed to the present day, and in connection with uniform municipal corporations acts has made special legislation in a large measure unnecessary. Also measures were taken to make special legislation both difficult and expensive. These measures, together with comparative freedom from the influence of political parties, have resulted in giving England municipal governments comparable to the best to be found anywhere in the world.

The City in the United States sacrificed to the solution of national questions and to party interests. In the United States, on the other hand, no such measures were taken. In the early part of the century the cities were of comparatively little importance, while almost from the beginning of its existence the national government was confronted with great national questions, to the solution of which all other considerations had to be sacrificed. Composed as it is of three independent departments and not provided with any legal governmental machinery by the means of which harmonious action might be effected, a dead-lock might occur in the national government at any time. Since it was practically impossible to provide the necessary legal machinery, some substitute had to be found. Hence an extra-legal machinery in the nature of political parties was developed, and the municipal governments were very largely sacrificed to this end. The last of the great national questions found its solution in the civil war. By this time, however, these parties, and the state legislatures largely dominated by them, had become so accustomed to look upon the city as the best available means of furthering political ends, not always consistent with the welfare of the city, that a change in the attitude was not easily to be effected.

Movements towards protecting the city from certain abuses. Various movements have been started with a view to freeing the city from some of the most serious abuses to which it has been subjected through party and legislative control. The most important of these is the movement toward limiting the powers

of the state legislatures through constitutional provisions.[1] Up to about the middle of the nineteenth century the state legislature had practically absolute control over city governments.[2] It could legislate with regard to them as it pleased.

Constitutional provisions limiting the powers of the legislatures. About this time, however, the states began to insert in their constitutions provisions tending to protect the city from this detailed and arbitrary control which the state legislature had become accustomed to exercise over it. These constitutional provisions may be classified under four heads: (1) those limiting the frequency and duration of legislative sessions; (2) those defining legislative procedure; (3) those excluding certain subjects from legislative competence; and (4) those prohibiting the passing of special laws where general laws can be made to apply.

1. Frequency and duration of legislative sessions. Formerly annual sessions of the state legislatures were the common practice; now only six states allow their legislatures to meet every year.[3] Biennial sessions are now the rule, and two states allow their legislatures to hold only quadrennial sessions.[4] The duration of legislative sessions is also limited; in eighteen states, to sixty days; in four states, to fifty days; in one state, to forty-five days; and in two states, to forty days. In three states the

---

[1] Skinner, *Annals American Academy of Political and Social Science*, Vol. XXVII, June 1906. Dealey, *American Political Science Review*, Vol. I, p. 201.

"Our present State Constitutions represent different stages of development and may be divided into four sets: (1) the six New England constitutions, (2) the ten made during the 25 years ending with 1865, (3) the 14 made from that date up to 1886, and (4) the 15 new and revised constitutions of the last 20 years. Three more will probably be added to this number within the next twelve months (Oklahoma, Michigan, and possibly Iowa), and an average of one per year may be expected from that time on. The process of amendment, through which 20 additions are made annually to our constitutions, tends to modernize all of these." Dealey, General Tendencies in State Constitutions. Ibid. Supra.

[2] Stimson, Federal and State Constitutions, p. 290.

Reinsch, American Legislatures and Legislative Methods, p. 129.

[3] Georgia, Massachusetts, New Jersey, New York, Rhode Island, South Carolina.

[4] Alabama, Mississippi. Reinsch, American Legislatures and Legislative Methods, p. 132.

duration of the legislative sessions is fixed at ninety days, in one state at seventy-five days, and in one state at seventy days. In some states the limits thus fixed are absolute, in others they are only suspensory. Extra sessions may be called by the governor as he sees need; but these also are frequently limited in length to twenty, thirty or forty days.[5]

2. Legislative Procedure. Those provisions relative to legislative procedure have to do with majorities necessary to pass certain bills, whether the majority required in any given case shall be a majority of the members present, a majority of all members elected, or a prescribed part of this number; with the intervals required to elapse after each reading of a bill before its last reading and before the final vote; with methods of taking and recording votes. In many states it is provided that no bill shall contain more than one subject, which shall be clearly expressed in the title. In the case of certain special legislation, it is required in some states that notice be given those likely to be affected by the operation of such legislation. Thus in the state of New York, the cities are divided into three classes, and any legislation affecting less than all the cities of any class must, before it may become effective, be referred to such cities as are to be affected by the operation of such legislation. All this tends to make legislation more difficult and to give to cities to be affected by proposed legislation an opportunity to be heard and to arouse public sentiment against the more obnoxious measures.[6]

3. Legislative Competence. Provisions have been made in the constitutions of a number of states by which the cities may frame their own charters,[7] under prescribed limitations. The states now having such provisions in their constitutions are California, Colorado, Michigan, Minnesota, Missouri, Washington, Oregon, and Oklahoma. In California any city having a population of more than three thousand five hundred inhabitants may frame its own charter; in Washington any city having a population of ten thousand inhabitants, and in Missouri any city having a population of more than one hundred thousand may frame its own charter.

[5] Index of Legislation 1907, New York State Library.

[6] Moses, The Government of the United States, p. 295.

[7] Goodnow, Principles of Administrative Law of the United States, p. 173.

Cities have taken advantage of these provisions.[8] In California the cities are divided into six classes and each class is provided with a general code. Notwithstanding, many cities of this state are being governed under charters framed in accordance with this constitutional provision. The initiative, the referendum and the recall are methods of legislation which have been given consideration,[9] and the referendum has been adopted in six states[10] by constitutional provisions.

4. Special Legislation. The most important and far-reaching of these constitutional provisions are those which pertain to special legislation.[11] Originally each city constituted a separate object of legislation. As has already been indicated, this method obtained generally until about the middle of the nineteenth century. It still obtains in a large measure where not constitutionally prohibited. Where this method is employed the powers conferred by any given act of the legislature are usually so limited and over-burdened with detail that to meet the new needs growing out of and incidental to its natural development a city is compelled constantly to be seeking new legislation. Hence, much of the time of the legislature is taken up in enacting special laws. In 1901, the legislature of the state of Alabama enacted one thousand one hundred thirty-two measures, only ninety of

---

[8] In Colorado, Denver; in Missouri, St. Louis and Kansas City; in Minnesota, 11 cities; in California, 17 cities, have availed themselves of the right to a charter of their own choosing.—Howe, The City, p. 160–5.

[9] Stimpson, Federal and State Constitutions, pp. 59, 256.

[10] Montana, Nevada, Oklahoma, Oregon, South Dakota, and Utah.

[11] The constitutions of the following states require the legislatures to pass general acts for the incorporation of municipalities:

Arkansas, California, Colorado, Idaho, Iowa, Kansas, Kentucky, Missouri, New Jersey, Ohio, North Dakota, South Dakota, Washington, Wisconsin, Wyoming, West Virginia, Texas.

In Texas applicable only to cities and towns of less than 10,000 inhabitants.

In 22 states the legislature is forbidden by the constitution to incorporate cities, and generally also villages, by special act. These are:

Arkansas, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Ohio, North Dakota, South Dakota, Pennsylvania, Tennessee, Texas, Washington, Minnesota, Wyoming, West Virginia, Wisconsin.

In Minnesota applicable only to towns and villages, in Texas to cities and towns of less than 10,000 inhabitiants.—Goodnow, Municipal Home Rule and Municipal Problems, p. 56 et seq.

which were general laws. Of the forty-five thousand five hundred fifty-two legislative enactments passed by the various state legislatures during the period from 1899 to 1904, only sixteen thousand three hundred twenty were general laws and the remainder were special.[12] All special laws enacted do not, of course, pertain to the city, but these figures serve to show the degree to which special legislation has been carried.

Power of legislatures to classify cities recognized by the courts. The courts, in interpreting these constitutional provisions limiting the power of the legislatures to enact special legislation, recognized the legislature as having the power to classify the cities upon a basis of population, and to legislate with respect to all cities of a given class.[13]

Attempts to evade constitutional provisions. In a few instances, attempts were made by the legislatures to evade such provisions of the constitutions by classifying the cities so minutely that acts relative to them, while general in form, were just as special in their application as before the constitutional restrictions were provided.[14] A partial excuse for such attempts may be found in the nature of the general legislation enacted, which was of such detailed character that the need of special legislation in the case of particular cities was not made any the less.

The legislature of the state of Illinois, in the first general municipal corporations act passed in 1872, did not attempt to regulate in detail the municipal organization, and special legislation with regard to cities practically ceased.[15]

Constitutional provisions for classification of cities. In some states the full classification of the cities is provided for in the constitutions; in other states only the maximum number of classes into which the legislatures may divide the cities is determined. The classification of the cities in Minnesota, given on page 19 is provided for in the state constitution.[16] The constitution of Missouri provides that the number of classes into which the legis-

---

[12] Reinsch, American Legislatures and Legislative Methods, p. 330.

[13] Goodnow, Principles of Administrative Law of the United States p. 175.

[14] Wilcox, Municipal Governments in Michigan and Ohio.

[15] Bemis, *Journal of Social Science*, Vol. VI. September 1882.

[16] Article IV, Section 36.

lature may divide the cities shall not exceed four;[17] so also in the case of Wyoming.[18] In Utah and certain other states the legislature is not restricted in the classification of cities.[19] In Ohio, after the courts had for a good many years recognized the legislature as having the power under the constitution to classify the cities of the state, they finally reversed all former decisions and denied the legislature this power. The legislature, finding it difficult to adapt itself to the new conditions, submitted to the people a constitutional amendment authorizing the classification of the cities into three classes according to population. This the people refused to sanction.[20]

Cities classified. The table given on pages 18, 19 and 20 will show the classification of cities provided for in the various states in which the cities are organized under general laws. In a few states,[21] the first class of cities includes only a single city, though this is not true generally. While in most of the states a code of law is provided for all the cities of each class, in a few states a code has been enacted for a single class only, cities of the other classes being still organized under special charters. In some states where a general charter has been provided for each class of cities, certain special chartered cities[22] have been allowed to continue as before unaffected by the operation of such general charters.[23] Provisions are uniformly made, however, in such

---

[17] Article IX, Section 7.

[18] Article XIII, Section 1.

[19] Article XI, Section 5.

[20] Review of Legislation 1903, New York State Library Bulletin, p. 5.

[21] In Michigan a general charter has been provided only for the cities of the fourth class; in New York, only for the cities of the second class, and one or two of the most important cities of this class are organized under separate special charters. The appointment of a commission to frame a general charter for cities of the third class has been authorized by the legislature.

[22] Illinois—Alton, Bloomington, Decatur, Galesburg, Jacksonville, Kankakee, Peoria, Rock Island and Springfield.

New York—Syracuse and Utica.

Kansas—Wichita.

[23] Some of these special charters date back well into the first half of the nineteenth century. Almost every legislature from the time of their first enactment has modified them, amending, adding to or repealing different parts until no one can know just what the law is in any particular case.

general charters by which such cities may abandon any part or all their special charters and adopt the provisions of the general charter applicable to their respective classes, wholly or in part. In some instances, a general law may be made applicable to all cities of two or more classes, and in all states there is a considerable body of laws applicable to all cities without regard to class.

CITIES CLASSIFIED BY STATES

Arkansas:
- 1st Class— 5,000 and over.
- 2nd Class— 2,500 and under 5,000.

California:
- 1st Class—100,000 and over.
- 2nd Class— 30,000 and under 100,000.
- 3d Class— 15,000 and under 30,000.
- 4th Class— 10,000 and under 15,000.
- 5th Class— 3,000 and under 10,000.

Idaho:
- 1st Class— 15,000 and over.
- 2nd Class— 1,000 and under 15,000.

Illinois:
- 1st Class—Over 100,000.
- 2nd Class—100,000 and less.

Indiana:
- 1st Class—100,000 and over.
- 2nd Class— 45,000 and under 100,000.
- 3d Class— 20,000 and under 45,000.
- 4th Class— 10,000 and under 20,000.
- 5th Class—Under 10,000.

Iowa:
- 1st Class— 15,000 and over.
- 2nd Class— 2,000 and under 15,000.
- 3d Class—Under 2,000.

Kansas:
- 1st Class— 15,000 and over.
- 2nd Class— 2,000 and under 15,000.
- 3d Class—Under 2,000.

Kentucky:
- 1st Class— 15,000 and over.
- 2nd Class— 10,000 and under 15,000.
- 3d Class—Under 10,000.

Michigan:

Recent Constitution does away with classification of cities and provides that all cities may frame their own charters under general laws.

Minnesota:

1st Class— 50,000 and over.
2nd Class— 20,000 and under 50,000.
3d Class— 10,000 and under 20,000.
4th Class—Under 10,000.

Mississippi:

1st Class— 2,000 and over.

Missouri:

1st Class—100,000 and over.
2nd Class— 30,000 and under 100,000.
3d Class— 3,000 and under 30,000.
4th Class— 500 and under 3,000.

Montana:

1st Class— 12,000 and over.
2nd Class— 1,000 and under 12,000.
3d Class—Under 1,000.

Nebraska:

Metrop.—100,000 and over.
1st Class— 40,000 and under 100,000.
2nd Class— 0,000 and under 40,000.

New York:

1st Class—175,000 and over.
2nd Class— 50,000 and under 175,000.
3d Class— 10,000 and under 50,000.

North Dakota:

Single code for all.

Oklahoma:

1st Class— 2,500 and over.
2nd Class—Under 2,500.

Pennsylvania:

1st Class—1,000,000 and over.
2nd Class— 100,000 and under 1,000,000.
3d Class— 10,000 and under 100,000.

South Carolina:

1st Class— 5,000 and over.
2nd Class— 1,000 and under 5,000.
3d Class—Under 1,000.

Tennessee:
1st Class— 10,000 and over.
2nd Class— 2,000 and under 10,000.

Utah:
1st Class— 20,000 and over.
2nd Class— 5,000 and under 20,000.
3d Class—Under 5,000.

Virginia:
1st Class— 10,000 and over.
2nd Class—Under 10,000.

Washington:
1st Class— 20,000 and over.
2nd Class— 10,000 and under 20,000.
3d Class— 1,500 and under 10,000.

Wisconsin:
1st Class—150,000 and over.
2nd Class— 40,000 and under 150,000.
3d Class— 10,000 and under 40,000.
4th Class— 1,000 and under 10,000.

Wyoming:
1st Class— 4,000 and over.
2nd Class— 5,000 and under 8,000.

Aim of constitutional provisions. While for the most part these constitutional provisions have had for their aim a modification of the method by which the state legislature exercises control over city governments, some of them have aimed at a complete prohibition of the legislature to deal with certain matters which pertain to the city. While in general these provisions have aimed to make the control of the legislature over the city more efficient and to secure the exercise of such control more exclusively in the city's interest, some of them have had as their ultimate aim the establishment of a sphere for the city in which it may act free from all legislative interference. A modification of the method of legislating for the city has in great measure been accomplished, as has been seen. This has been brought about, too, largely by means of the constitutional provisions. Little progress has been made, however, in establishing a special sphere of action for the city.[24] It has been noted that in England, in

[24] Goodnow, City Government in the United States, p. 96.

connection with the uniform charters provided, a system of administrative control has been developed. Nothing of this kind has, in general, been undertaken in the United States. Until some such provision has been made, it is neither probable nor desirable that the control which the state now exercises over the city through its legislative assembly shall ever be greatly restricted.

Legislative control over cities. It is probably already clear that in the absence of constitutional provisions the control of the state through its legislative assembly is absolute. A state legislature may, in the absence of such provisions, legislate with regard to cities as it will. It may give to the city such organization as it chooses, it may vest authority for its government where it will. Authority once vested may be diminished, altered, or taken away altogether. "The legislature may enlarge or diminish its territorial extent, or its functions, it may modify its internal arrangements, or destroy its very existence with the mere breath of arbitrary discretion. *Sic volo, sic jubeo,* is all that the sovereign state need say."[25] The city has no vested rights, it has no powers not granted it by the state legislature.[26]

The city an organization of enumerated powers. The powers granted to cities by state legislatures, while numerous and liberal, are usually enumerated in some detail. Where the practice of special legislation with respect to cities still obtains, the powers granted are as a rule much more minutely enumerated than where they are granted by general laws. But in any case the city is an authority of enumerated powers, and can exercise only such powers as are explicitly granted to it.[27]

---

[25] Trickett, the Law of Boroughs in Pennsylvania.

[26] "City corporations are emanations of the supreme law-making power of the State, and they are established for the more convenient government of the people within their limits."—Darlington vs. Mayor of New York, 31 N. Y., 164.

[27] "It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily or fairly implied in, or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied. Of every municipal corporation,

Functions of the city. The early city, particularly the City-State, had important functions to discharge in connection with foreign affairs. It entered into treaties and formed leagues with other cities. It also performed important functions in connection with military affairs. It had its own army for its defence, and its use in offensive warfare is not unknown. In judicial and financial affairs it exercised important functions. It may be said that the origin of the modern municipal organization is to be found in the judicial organization of the city.

With its loss of independence the city ceased to exercise any of these functions. The movement towards the recognition of a sphere in which the city may act in its own right, begun in Europe in the first part of the nineteenth century, has not restored to the city the right to discharge any of these functions. The city no longer exercises any powers or performs any duties in connection with foreign affairs. It no longer exercises any powers or performs any duties of importance in connection with military affairs. With regard to judicial and financial affairs, the city in certain instances exercises more or less important functions; but in the exercise of these functions it acts exclusively as an agent of the sovereign state. Only in the field of what is generally designated as internal affairs does the city discharge any functions in its own right. But even in this sphere the city is regarded as acting as an agent of the state in the discharge of some of its most important duties and in the exercise of some very important powers. In general, whatever functions the city is permitted to perform in connection with police, sanitation and education, it performs as an agent of the state.

"Whatever freedom of action cities still possess is rather narrow and embraces, generally speaking, only the matter of local improvements and public works....All other functions of government which cities may be permitted by the law of the land in which they are situated to discharge are recognized by that law as state rather than municipal functions. In their discharge of these functions the cities are recognized by law as mere state

---

the charter or statute by which it is created is its organic act. Neither the corporation nor its officers can do any act, or make any contract, or incur any liability, not authorized thereby, or by some legislative act applicable thereto. All acts beyond the scope of the powers granted are void."—Dillon, Municipal Corporation, 4th edition, p. 145.

agents subject to the continual supervision of the state government."

In the discharge of those functions which are regarded as local or municipal in character the cities are in some of the states of the United States protected by constitutional provisions against interference on the part of the state government. In the absence of constitutional provisions assigning the city a definite sphere of action, the legislature, aided by the courts, determines in any concrete case what are the functions of the city and what are the functions of the state. What may be a function of the city in one state may be in another a function of the state; what may be a function of the city at one time may be at another time a function of the state. What may be a municipal function in one city may not be so in another city. Functions which a city discharges to-day as municipal functions it may be required to discharge tomorrow as an agent of the state.

There are, however, certain matters with regard to which this question may be said to be quite generally and permanently settled. As has been indicated, the city is not now permitted to perform any functions at all in connection with foreign affairs. With regard to military and judicial affairs, the city is still permitted to perform certain important functions as an agent of the state.

With regard to financial[28] and educational[29] affairs, the city is charged with important duties, but in the discharge of such duties it acts exclusively as the agent of the state. In general, this is true also of police and sanitary affairs, though there are

[28] Goodnow, City Government in the United States, p. 38.

[29] The courts have almost invariably held that education is a state function, and officers connected with educational work in cities as well as in other subdivisions of the state are regarded as state agents. See A. S. Draper. The Legal Status of the Public Schools, in Report of Superintendent of Public Instruction, New York 1890, Appendix II, Exhibit II, p. 101; Ham vs. The Mayor, etc., 70 N. Y., 459. See also Kimball vs. Salem, 111 Mass., 87.

New York State Constitution provides that no person shall be eligible to the State Legislature who is an "officer of a city government." The city charter of Albany enumerated members of the board of education among the city officers. A member of the board was elected to the Legislature and the election was contested under the constitutional provision above. Held, a member of a board of education is not a city officer but an agent of the state. (Cited by Draper.)

important exceptions. It is probable that the state will never relinquish its control over any of these matters, but will rather strengthen it. Whatever sphere of action, free from all interference on the part of the state, may be secured to the city, must lie in the field of public improvements and public works, and for the discharge of functions in this field also the state may at any time make the city its agent.

UNIVERSITY

CHAPTER II

THE CITY SCHOOL DISTRICT*

It has been seen that the city is entirely dependent upon the state which has created it, that the state exercises control over it through its legislature and that in the absence of constitutional provisions limiting the power of the legislature with regard to the city the control which the state may exercise is absolute and unlimited. It has been seen further that the state has recognized the city both as an organ of the state for the discharge of certain state functions and as an organization with certain functions of its own in the discharge of which the state need not interfere. The functions which the state permits the city to discharge as its agent, and with which the city, as a city, has nothing to do, have been noted. It has been noted further that one of the functions which the state sometimes permits the city to discharge as its agent has to do with the administration of the public schools within its limits.

It has been seen also that the city is a corporation with enumerated powers, and that it may exercise only such powers as are

* The city school district had its origin in a desire on the part of these different municipal corporations or other aggregations of people living within comparatively small areas to provide for their children somewhat better systems of public schools than could be provided for the larger district of which they constituted a part. At first, when the inhabitants of any such municipal corporation conceived the idea of assuming control of their own schools, an application was made to the state legislature for a special charter or grant, containing all necessary provisions for the immediate establishment, maintenance and control of a system of public schools within the limits of such corporation. Each municipal corporation made its application independently of every other such corporation, and usually such privileges and powers were granted as were requested in each case, without regard to those granted in any other similar case. Hence, there soon came into existence a large number of what are commonly known as special charter city school systems.

About the middle of the nineteenth century there began a movement towards inserting in the state constitutions provisions limiting or prohibiting legislation of this kind. This movement grew apace, and at the present time more than half the states have in their constitutions such provisions. Largely as a result, these special charter systems have been

granted to it in express words, or are necessarily or fairly implied in or incident to those expressly granted, or are essential to the declared objects and purposes of the city—not simply convenient, but indispensable.[1] The state may or may not include, among the many powers granted to the city, powers having to do with the city school district.

Various agencies provided by the state for the administration of the city school district. It remains to be noted that the city is not the only corporation which the state may create, that in the absence of constitutional restrictions the state may through its legislature create such corporations as it deems best and vest them with such powers as it sees fit. Further, in the absence of constitutional restrictions, the state may, in the discharge of its various functions, create any sort of agency, corporate or non-corporate, and vest it with very broad or very limited powers. As a matter of fact, the state has used great freedom in the exercise of these powers. It has created various agencies for the discharge of its various functions. Not only this, but it has created various agencies for the discharge of a single function, viewed in the large. This is particularly true with regard to public education within the limits of the city corporation. Further, the state may utilize an agency created by it primarily for the dis-

provided for under general laws in a great majority of the states. Instead of the special charter granted to each individual city school district upon application, uniform charters are now being enacted and made applicable to city school districts alike. In some states provision has been made for the classification of such districts, and where this has been done a general charter may be enacted applicable to all the city school districts of a given class. Some states where no such constitutional provisions exist, influenced undoubtedly by other states which were forced by such provisions to take the lead, have provided wholly or in part for some or all of their city school districts under general laws. In some instances, however, the special charters still obtain, even in some states where city school districts are now provided for under geaeral laws. But in many instances the powers which a city school district may exercise under such charters are being gradually curtailed, and in many instances such charters have been abolished altogether. Moreover, where they have not been abolished, provisions have been made quite generally whereby any city school district may by a vote of its qualified electors or their representatives abandon such charter and become organized under the uniform charter of the class to which such district may under the law belong.

[1] Infra, p. 25.

charge of certain specific functions, for the discharge of certain other different or additional functions, and may vest it with special powers for this purpose.[2] For the administration of public education within the corporate limits of the city, the state sometimes vests all necessary powers in the authorities of the city; it sometimes creates an independent corporation exclusively for the administration of schools and vests it with all necessary powers; it sometimes vests certain of such powers in the city and others in such independent corporation. Further, the state very frequently creates or utilizes also various additional agencies for the administration of schools within the city, distributing powers among all as it deems best.[3]

The city school district defined. The city school district may then be defined as an aggregation of people living within a comparatively small area incorporated by the state for the administration of public education within such area.[4] The administration of public education, however, may or may not be the only purpose of such incorporation, it may or may not be the primary purpose. Where the state utilizes a single corporation for the discharge of practically all its functions within such area, the administration of public education becomes only one of the many purposes of the incorporation. But the city is the only single corporation which the state thus utilizes, and it does so in the case of the city in only comparatively few instances. The state commonly creates two or more corporations for the discharge of its functions within such area. One of such corporations is commonly created exclusively for the purpose of educational administration.

[2] The city, the county, or the township cannot be said to have been created primarily for the administration of schools, though all of these are utilized for this purpose.

[3] Before a property tax can be levied it is necessary that the property be appraised and a valuation determined. The corporate authorities of the city school district are not permitted to discharge this function. These authorities do frequently determine the tax levy; but the taxes are usually collected by the regular tax collector for the city or the state and county. In some instances the amount of money which may be provided for the city school district is determined by other than the corporate authority of the city school district. Boards of public works in some instances have full charge of all construction work.

[4] Goodnow, City Government in the United States, p. 3.
Giddings, Principles of Sociology, p. 93.

The relation of the city school district to the city.[5] The relation of the city school district to the city cannot be defined in general terms. Territorially it may be identical with the city or it may be more extensive. Where it is identical, extending the limits of the city extends *ipso facto* the limits of the city school district. Where it is more extensive, the conditions under which its limits may be extended vary. Legally, provisions for the city school district may constitute a part of the corporate powers of the city, or the city school district may be created a corporation entirely independent of the city. Where two such corporations exist, the state may vest certain powers in the one and certain other powers in the other, or the two may be required to act jointly in the discharge of certain special functions. The city as a city has nothing to do with the city school district. The

[5] Considered from the point of view of school administration in general within the state, the city school district has been regarded as something abnormal or exceptional. In all the states there are found provisions for somewhat elaborate systems of free public schools. The organization of these systems differs in the different states. There are generally recognized three more or less distinct forms, known respectively as the county, the township, and the district systems. Any given system is classed as one or other of these according as its distinctive unit of organization is one or other of these three, the county, the township, or the district. The city school district is no one of these, though territorially it may include any one or all three. Its organization is as a rule different, and in so far it is abnormal or exceptional.

In almost all the states there are, outside of these distinct units of organization, whichever of the three obtains, large numbers of school districts having an organization more or less independent and distinct. These districts have been variously designated as taxing, special, independent, and city school districts. The levying of a local tax or otherwise providing for local funds for the support of the schools is a characteristic of these school districts. They are special only in so far as they do not constitute regular units in the general system of the state organized on the basis of the county, township or district unit. The degree of independence which any one of them enjoys varies. Originally, these districts were independent, not only when regarded from the point of view of the general state organization but also when regarded from the point of view of their relation to each other. Whatever they possessed in common they possessed incidentally or by reason of having similar conditions to be met by similar provisions, not by reason of any general provisions made applicable to all or to any large number of such districts.

relation which the city school district may hold to the city varies according as the state had made the latter its agent for the discharge of many or few functions in connection with the former. The importance of that relation will depend upon the number and the importance of the functions which the state permits the city to discharge in behalf of the city school district.

The city school district a municipal corporation. The state has quite generally created the city school district a corporation, or created a corporation for the government of the city school district, more or less independent of the city. Such corporation is created exclusively for the discharge of educational functions. In no instance is it permitted to discharge functions which are not in some way related to public education within its limits. This corporation, created by the state exclusively for the discharge of educational functions, is commonly regarded as a municipal corporation or quasi-corporation. It has been treated, in general, by the state legislatures as other municipal corporations.[6]

The relation of the city school district to the state. The city school district in its corporate capacity stands in the same relation to the state as the city when acting as the agent of the state for the discharge of duties in connection with public education. It is an "emanation of the supreme law-making power of the state,"[7] established for the more convenient administration of the public schools within its limits. Unlike the city, it is in no instance recognized as having duties of its own in the discharge of which the state need not interfere. The city school district is exclusively an agent of the state created for the discharge of state functions.

The city school district affected by constitutional provisions. The constitutional provisions limiting and directing the powers of the state legislatures, which have had so great influence in shaping legislation with regard to the city, have had a similar influence in shaping legislation with regard to the city school district. As a municipal corporation the city school district may

[6] Kinnare, vs. City of Chicago, Ill., 171–332.

[7] Darlington vs. Mayor etc., of New York, 31 New York, 164.

be subject to the same provisions as other municipal corporations, while not a few of these constitutional provisions are applicable directly and exclusively to it.[8]

The results accomplished through such constitutional provisions are most apparent when considered in connection with general legislation as opposed to special legislation. Before special legislation was restricted by these constitutional provisions it was the common practice to provide for the city school district in this way. At the present time there are comparatively few states which do not either wholly or in part provide for such districts under general laws. It may be said that in no state in which any large number of distinct city school districts has been provided for, apart from the general provisions for all public schools, is there not to be found a considerable body of general laws applicable to such districts. There are still a few states, however, in which such general law provisions as have been made for the city school districts are scattered and do not constitute any complete code, the deficiencies being provided for entirely by special legislation in the nature of the so-called special charters. In general the city school districts have been classified, usually on the basis of population, as in the case of the city. In some instances, however, the school population is made the basis of classification, and quite frequently the classification differs from that of the city, though made on the same basis. For example, in Missouri all cities with a population of 100,000 or over are of the first class, while all city school districts of 300,000 and over are of the first class. Any law applicable to all city school districts of a given class is regarded as a general law, while all laws which are applicable to less than all of a given class are regarded as special laws.

City school districts classified. The following table will show in a general way the classifications of city school districts which

[8] Alabama, v–104, 22; California, xi–8½, 2; Colorado, ix–15; Georgia, viii–4, 1; Louisiana, art. 252; Kentucky, sec. 157; Missouri, x–11; Montana, xi–10; Oklahoma, v–46, x–26; Wisconsin, x–4; Virginia, sec. 136.

Utah, x–6: "In cities of the first and second class, the public school systems shall be maintained and controlled by the Board of Education of such cities, separate and apart from the counties in which said cities are located."

now prevail in a number of the states and the population required in each case.

CITY SCHOOL DISTRICTS CLASSIFIED

Arkansas:
- 1st Class— 5,000 and over.
- 2nd Class— 2,500 and under 5,000.

California:
- 1st Class—100,000 and over.
- 2nd Class— 30,000 and under 100,000.
- 3d Class— 15,000 and under 30,000.
- 4th Class— 10,000 and under 15,000.
- 5th Class— 3,000 and under 10,000.

*Colorado:
- 1st Class— 1,000 and over.
- 2nd Class— 350 and under 1,000.
- 3d Class—Under 350.

Idaho:
- A single code for all.

Illinois:
- 1st Class—Over 100,000.
- 2nd Class—100,000 and under.

Indiana:
- 1st Class—100,000 and over.
- 2nd Class— 50,000 and under 100,000.
- 3d Class—Under 50,000.

Iowa:
- 1st Class— 15,000 and over.
- 2nd Class— 2,000 and under 15,000.
- 3d Class—Under 2,000.

Kansas:
- 1st Class— 15,000 and over.
- 2nd Class— 2,000 and under 15,000.
- 3d Class—Under 2,000.

Kentucky:
- 1st Class— 15,000 and over.
- 2nd Class— 10,000 and under 15,000.
- 3d Class— 0,000 and under 10,000.
- 4th Class—Under 0,000.

Michigan:
- 1st Class—
- 2nd Class—
- 3d Class— 10,000 and under.
- 4th Class— 3,000 and under 10,000.

*Based on school population.

Minnesota:
- 1st Class— 50,000 and over.
- 2nd Class— 20,000 and under 50,000.
- 3d Class— 10,000 and under 20,000.
- 4th Class—Under 10,000.

Mississippi:
- A single code for all.

*Missouri:
- 1st Class—300,000 and over.
- 2nd Class— 50,000 and under 300,000.

Montana:
- 1st Class— 12,000 and over.
- 2nd Class— 1,000 and under 12,000.
- 3d Class—Under 1,000.

Nebraska:
- Metrop—100,000 and over.
- 1st Class— 40,000 and under 100,000.
- 2nd Class— 0,000 and under 40,000.

New Jersey:
- A single code for all.

New York:
- 1st Class—175,000 and over.
- 2nd Class— 50,000 and under 175,000.
- 3d Class— 10,000 and under 50,000.

North Dakota:
- A single code for all.

Ohio:
- A single code for all.

Oklahoma:
- 1st Class— 2,500 and over.
- 2nd Class—Under 2,500.

Oregon:
- 1st Class— 1,000 and over.
- 2nd Class— 200 and under 1,000.
- 3d Class—Under 200.

Pennsylvania:
- 1st Class—1,000,000 and over.
- 2nd Class— 100,000 and under 1,000,000.
- 3d Class— 10,000 and under 100,000.
- 4th Class—All others

South Carolina:
- 1st Class— 5,000 and over.
- 2nd Class— 1,000 and under 5,000.
- 3d Class—Under 1,000 .

*Based on school population.

South Dakota:
A single code for all.

Texas:
A single code for all.

Utah:
1st Class— 20,000 or over.
2nd Class— 5,000 and under 20,000.
3d Class—Under 5,000.

Virginia:
1st Class— 10,000 and over.
2nd Class—Under 10,000.

Washington:
1st Class— 20,000 and over.
2nd Class— 10,000 and under 20,000.
3d Class— 1,500 and under 10,000.

Wisconsin:
1st Class—150,000 and over.
2nd Class— 40,000 and under 150,000.
3d Class— 10,000 and under 40,000.
4th Class— 1,500 and under 10,000.

Wyoming:
1st Class— 1,000 and over.
2nd Class—Under 1,000.

Variations from regular classifications. There are to be found more or less frequent variations from these classifications, as shown in the tables, special classifications being made for specific purposes.[9] But more frequently general laws are made applicable to the cities of more than one class or to all classes.[10] In a few instances general codes have not been enacted for all the classes provided for. Thus in Michigan only the cities of the fourth class are provided with a general code, the cities of the other three classes being still under special laws. In New York a code has been enacted only for the cities of the second

[9] Missouri has a code for city school districts of from 50,000 to 300,000 inhabitants and another "for city, town and village school districts." Note Section 9874 and Section 9877 for variations in classifications. See also Kansas, Chapter 330 Laws of 1907, Section I; Chapter 99, Laws of 1885, Section 3.

[10] Virginia, Code, Section 1 to 23; Oregon, Code, Section 3389. Colorado, M's. A. S., 4005; Utah, Code of 1898, Section 1892.

class, and the cities of the first and third classes are still provided for under special charters.

Special charters excepted. In general, where the state legislatures are not specifically required by constitutional provisions to incorporate their cities under general laws, certain cities are still the object of special legislation.[11] Where special legislation is prohibited by constitutional provisions, cities already organized under special charters are frequently excepted from the operation of general laws in so far as they are in conflict with the provisions of such charters.[12] In such general laws a method is usually provided by which such cities may abandon their special charters and become organized under the general laws.[13]

Sometimes it is provided that these cities may adopt any provision of the general laws and only so far abandon their special charter, the same remaining in all other respects operative. On the other hand there are instances where the state legislatures have made general laws applicable to all cities, of all cities of a given class, without regard to the provisions of special charters.[14] Where special legislation is entirely prohibited, special charters may not be either altered or amended, and as a result general laws naturally take the place gradually of such special laws. In some instances about all of such charters that is now left operative pertaining to matters of public education are those provisions which have to do with the manner in which, the times at which, and the terms for which the members of the board of education shall be elected or appointed, and the number which shall constitute such board.[15]

Besides those states, it may be added, which have enacted general codes applicable to some or all of the city school districts within their respective limits, there are still states which

[11] New England states, New York, Michigan.

[12] New York, Charter for city school districts of the second class not applicable to Syracuse and Utica.

[13] New Jersey offers two options in the matter of providing for the Board of Education. Only two city school districts have adopted either one of the two. Most of these districts have Boards of Education provided for under old charters. In other respects all are under one general law.

[14] Illinois, Act approved May 28, 1889, also Act approved June 2, 1891. Minnesota, chap. 289, Laws of 1903, also chap. 50, Laws of 1907.

[15] New Jersey.

for the most part provide for such districts only by special laws.[16] There appears to be only a single state which has no city school district system.[17] There are a few states which have each only one such district, which is provided for under a special charter.[18]

Of those states which have developed in any large measure a city school district system, only those in New England and a few Southern states appear to be making little or no progress in the way of providing general codes for them. The state of Georgia annually burdens her statute books with special laws affecting her city school districts. The same is true of the state of New York, although New York has made some progress towards providing general codes.

[16] New England states are conspicuous for the absence of General Codes for city school districts. But here also is found a considerable body of general laws applicable to all city school districts. This is particularly true of Massachusetts and Connecticut.

[17] Florida: It has a general law providing in a measure for such districts, but no city has adopted the provision.

[18] Delaware, Maryland.

PART II

ORGANIZATION AND FISCAL AFFAIRS

CHAPTER I

ORGANIZATION

1. General Organization

Introductory. A further development of this subject might logically take either of the two lines indicated in these chapters: the one having to do with the relation of the city school district to the city, the other with the relation of the city school district to the state, as shown in the various statutes, and as they affect the organization and fiscal affairs of such district. The former would involve tracing out in some detail the various relations in which the city school district stands with reference to the city, varying as it does in these relations from a department in the city government differing in no essential particular from other departments to one of practical independence of such government. The latter would involve a portrayal of the nature of the control which the state exercises over the city school district, and of the varying degrees in which it is provided for by general laws, in substance as well as in form, and the essential differences in the character of such laws and of special laws as affecting such district. Either one of these lines of development would be of interest, however, chiefly to the student of administrative law, and would have little practical value for the student of public education. For this reason it is thought that a general study of the organization and fiscal affairs of the city school district, as provided by statute, may be more profitable. These matters, however, are important and necessary to a full understanding of such district. Nevertheless, if the facts already given be kept in mind, those elements in such general study which are chiefly of interest to the student of administrative law may be kept largely in the background.

In the study of the organization of the city school district no distinction will be made between those districts which are provided for by general legislation and those by special legislation, though these facts may be noted occasionally. Nor does it seem advisable to draw any hard and fast line between those city districts which are provided for as a department of the city and those for the administration of which an independent corporation has been created. The aim here will be rather to describe in as brief space as possible the various agencies utilized or created by the state for the administration of the public schools within the corporate limits of the city, or within the corporate limits of the city school district where these differ from those of the city. As a matter of fact, whether the city school district is provided for as a department of the city government or is created an independent corporation exclusively for educational purposes, various officers of the city government are frequently charged with important functions in connection with public education within its limits. But, as has been seen, this is true also of other municipal corporations as well as of the city. The state has also utilized for the administration of schools within the city school district various agencies provided by it for the administration of educational or other affairs of the state in its different subdivisions or in the state as a whole.

Classification of various agencies. In the study of the organization of the city school district it seems advisable to classify these various agencies, created by the state, which go to make up the organization of such district, according as they have been created primarily for the discharge of educational functions or of other functions, discharging such educational functions as they do in an ex-officio capacity. Those agencies which have been created primarily for the discharge of educational functions may be further differentiated according as they exist primarily for the discharge of functions in connection with the city school district or with another sub-division of the state or with the state as a whole. The board of education is quite uniformly the most important agency in the organization of the city school district. Other agencies may then also be considered according as they act in the discharge of their duties as authorities subordinate to, coordinate with, or superior to such board.

Various boards and officers. Besides the board of education there are boards, such as examining boards,[1] library boards,[2] and boards in charge of special schools.[3] In a few city districts there are also divisional or sectional boards of education, but, except in a few instances in Pennsylvania, their functions are unimportant.[4] In all city school districts of importance provision is made for a superintendent of schools, and in some his functions are prescribed. In a few of the more important districts assistant or associate superintendents are specially provided for.[5] Provision is made in a few instances for district superintendents and boards of superintendents.[6] Special supervisors may be provided for, such as a supervisor of lectures in New York.

Officers and employees—distinction. In all city school districts, provision is made, of course, for principals and teachers. Their duties are not as a rule prescribed, and the relation in which they stand with reference to the district is usually a contractual one.[7] This is frequently true also of the superintendent of schools, but more and more the superintendent is

[1] New York City, Indianapolis; Ohio, all cities; and many others.

[2] Niagara Falls; commonly in California.

[3] Industrial schools in Massachusetts, particularly.

[4] New York City.

New York—2nd class providing visiting committees; Baltimore providing visiting committees; Philadelphia, Pittsburgh.

[5] Boston, Milwaukee, New York.

[6] New York City, Philadelphia, and Baltimore.

[7] "By an office is understood a right or duty conferred or imposed by law on a person or several persons to act in the execution and application of the law. By officers are meant those persons on whom an office has been conferred or imposed. The government may, however, either in its central or local organizations enter into private legal relations and as a consequence may have employees. Inasmuch as its employees are regarded as having entered into contract with the government, no state may, under the constitution of the United States, pass any law which impairs the obligation of a contract of employment made by such state. But since the official relation is not regarded as a contractural relation but as a relation of the public law, a state is not regarded by the courts as prevented from changing the terms of the official relation even after it has been entered into by the officer. Furthermore, inasmuch as the official relation is a public legal relation and the relation of the employer and employee is a private legal relation, the rules of the public law apply to the official relation, while the rules of the private law apply to all government employments."... Goodnow, Principles of Administrative Law, p. 222.

becoming recognized as an officer. There are also a few recent instances of teachers having been declared by statute to hold an official rather than a contractual relation with respect to the district.[8]

Non-professional agents. The number of non-professional agents provided for the city school district is large. There appears to be a tendency towards relieving the board of education from all executive functions, non-professional as well as professional. There appears also to be a tendency towards permitting officers of city or other municipal corporations to discharge the functions commonly discharged by non-professional agents. If this latter tendency continues, as there are reasons to believe that it will, the number of such agents is not likely ever to increase in any large degree. At the present time provisions are made in a few instances for certain commissions, such as schoolhouse commission,[9] high school building commission,[10] commission for the management of teachers retirement fund,[11] sinking fund commission.[12] Among other agents provided for are business manager or director,[13] superintendent of buildings,[14] superintendent of supplies,[15] purchasing agent,[16] supervising architect.[17] A treasurer and a secretary or clerk are quite uniformly provided for, and commonly their duties are prescribed. Sometimes the president of the board of education is charged with specific functions.[18]

State and county officers. Other agencies created exclusively for the administration of school affairs, though not primarily those of the city school district, are the state and county boards of education and the state and county superintendents, the state

---

[8] Syracuse; Stockton, Cal.

[9] Boston, Mass.

[10] Brockton, Mass.

[11] Indianapolis, Schenectady, Harrisburg, Milwaukee.

[12] Ohio.

[13] Indianapolis, New Jersey, Ohio.

[14] New York, St. Louis, Philadelphia, Baltimore, Ohio, New Haven.

[15] New York and Philadelphia.

[16] Washington (state).

[17] Rochester.

[18] Grand Rapids—President of the Board of Education may veto acts of the Board; two-thirds majority required for vote to pass over veto. Dallas, Texas, charter of 1907, art., Section 2.

and county examining boards and text-book commissions. Potentially the state boards and superintendents appear to have the same authority with regard to the city school districts as with regard to other school divisions of the state. The city school district is, however, frequently exempt from all control on the part of the county school authorities.[19] The city school district is commonly authorized to examine and grant certificates to teachers, though it is sometimes provided that the standards set may be higher than those set by the state.[20] The authority vested in state text-book commissions is sometimes not extended to the city school district or is modified in its application to it.[21]

Functionaries acting in ex-officio capacity. The number of functionaries discharging educational duties in an ex-officio capacity appears quite properly to be increasing. The matter of organizing new city school districts, or adding adjoining territory to city school districts already organized, is sometimes left in the discretion of some local authority, such as the board of county commissioners[22] or county board of education, who acting under the law may organize such districts upon petition being presented signed by a certain number of the electors from the district seeking organization. Generally, the city school district depends in a large measure for its revenue upon a property tax levy, which is based upon an assessed valuation of the property upon which the tax is to be levied. Those who levy taxes for school purposes are uniformly required to base their levy upon the property valuation assessed for levying taxes for city or state and county purposes. The function of levying taxes for school purposes is usually performed by the city or the state and county taxing authorities.[23] The city school district is not generally charged with the function of collecting taxes, and where it is,

[19] Utah, Code of 1898, Section 1892; also constitution x–6, infra, p. 30. Pennsylvania, School Laws of 1907, p. 139.

[20] New York, Chapter 543, Laws of 1907, Section 3, Syracuse.

[21] Missouri, Revised School Laws of 1907, p. 106. Missouri, Act approved March 23, 1897, Sec. 11—St. Louis. Georgia, Act approved Aug. 13, 1903, Sec. 19. Wisconsin, chap. 561, Laws of 1907, Sec. 19. Iowa, Report of Educational Commission, 1908, p. 59.

[22] Idaho—Political Code, Sec. 1070.

[23] In all cases where the board of education in making its annual estimates expresses the amount desired in other than a rate based upon the valuation of property.

it is usually required to employ as collectors those who collect the taxes for city or for state and county purposes.[24]

City officers. With regard to the matter of preparing estimates of the amount of money required for the current year, the board of education is uniformly charged with this duty and quite generally exercises final authority in the matter. However, in a few states and in a large number of special charter city school districts the city council, the board of estimate and apportionment, the city controller, or the mayor exercises important functions in this connection.[25] In a few instances one or other of these authorities determines finally the nature and amount of such estimates.[26] Where the board of education fails to prepare such estimates it is provided in a few cases that some other authority shall prepare them, such as the county commissioners,[27] county board of education,[28] or board of tax levy.[29] Boards created primarily for the discharge of functions in connection with the city, such as boards of estimates and apportionment, boards of contract and supply,[30] boards of public work,[31] exercise important functions in a large number of city school districts.

The city or county treasurer is very commonly made the custodian of school funds,[32] and the city auditor or controller sometimes audits school accounts.[33] In a few states school accounts

---

[24] St. Louis appears to be an exception: Charter, Section 22.

[25] In the New England states, New York, Baltimore, Michigan, California, quite generally so. Massachusetts, chap. 322, Laws of 1899. Lawrence.

[26] In the case of the city school districts of the second class and several special charter city school districts in New York; quite generally in New England, Baltimore, etc.

[27] Ohio School Laws, Sec. 3969.

[28] Iowa, Report of Educational Commission 1908, p. 68.

[29] Minneapolis charter Sec. 7.

[30] Several city school districts in New York—Rochester.

[31] School Laws of Wisconsin of 1905, p. 206 (General Laws, Sec. 925–118). New York, Chapter 548, Laws of 1907.

[32] City Treasurer quite uniformly so in New England states, New York, New Jersey, California. Also in a number of cities in Pennsylvania which have adopted a provision of the law authorizing it. In Washington and a number of other western states the county treasurer is custodian of the school fund of the city school district.

[33] This is quite commonly so where the city treasurer is custodian of school funds.

are audited by state examiners or state accountants. The mayor or city council may be required to employ an expert accountant to audit school accounts.[34] Expert accountants are sometimes employed where not required by law.

The members of the board of education are frequently appointed by the mayor of the city within the corporate limits of the school district; sometimes they are appointed by the mayor and the council or by the mayor with the confirmation of the council. Prior to the year 1903 the city council for a city of the fourth class in Minnesota performed all the functions of a board of education.[35] In one unimportant instance the mayor and council were created a board of education.[36] Occasionally the mayor and council are vested with authority to provide a board of education and to prescribe its duties. In Buffalo the functions of a board of education are performed by a committee of the city council subject to the approval of that body. In a few cases the mayor is made an ex-officio member of the board of education, and in one or two cases the mayor is made ex-officio president of such board. But more commonly both the mayor and members of the city council are made ineligible to membership in the board of education.[37]

In general it may be said, however, that the board of education is being more and more guarded in its membership against all the political influence and control for which it is thought that

---

[34] St. Louis.

[35] Minnesota, Chapter 289, Laws of 1903; also Chapter 289, Laws of 1907.

[36] Illinois: Alton, Bloomington, Decatur, Galesburg, Jacksonville, Kankakee, Peoria, Rock Island, Springfield.

Prior to 1889, in the case of some if not all of these cities, the city council was ex-officio the board of education. In 1889 a law was passed providing for a board of education to be composed of two members from each ward and one at large, one from each ward to be nominated by the mayor and confirmed by the council annually. The member at large thus appointed is president of the board and serves for one year only.—Act approved May 28, 1889.

In 1891 a law was passed applicable to all cities under special charters (having a population of not less than 1,000 nor more than 20,000), providing for elective boards when so determined by a majority vote of electors at an election called upon petition of 50 voters.—Act approved June 2, 1891.

[37] Boston; city school districts of second class in Kansas; Virginia, Code Section 1527.

the city governments usually stand.[38] On the other hand, there is a tendency towards utilizing regular city agencies for the discharge of functions in connection with the city school district, acting however in the discharge of such functions either under the direction or with the approval of the board of education, or exercising authority co-ordinate with that of such board.

2. The Board of Education*

Introductory. No one thing relating to the administration of the city school district has been the object of so much agitation and discussion as the board of education. The most desirable qualifications for membership; how membership should be effected, whether by appointment or by election; if by election, whether by ward or by district or at large; if by appointment, in what authority the power to appoint should be vested; how nominations should be made; what should be the tenure of office of members; what the method of renewal; the number of members of which the board in any given instance should be composed; what powers the board should possess; what should be its relation to other officers and administrative agents of the district; what the relation to the officers of the city or to those officers within the city discharging other state functions—are some of the questions that are considered vital. It is not the purpose of this brief discussion to attempt to answer these questions. Information is given, however, which is necessary to an intelligent solution of any of them. The statutory provisions bearing upon these matters have been examined in connection with all the more important city school districts and as many less important or smaller districts. No serious effort has been made to trace the changes which appear to be rapidly taking place, or to note the various tendencies. The facts here given are sufficient, however, to form a basis for such a study, the value of which will be readily appreciated by those interested.

---

[38] Goodnow, City Government in the United States, p. 16.
School Board Journal, April, 1908, p. 8.

* Other titles by which this body is known are: Board of School Commissioners, Board of School Inspectors, Board of Controllers, Board of Directors, Board of Trustees, School Board, and School Committee. Board of Education as used here is intended to include all of these.

A corporate body. The board of education, considered from the point of view of authority vested, is in general by far the most important agency provided by the state for the administration of the city school district. It is commonly a body corporate. It has to do exclusively with school affairs within the city school district for which it is created the organic authority. Within this sphere its powers are usually broad. They are always enumerated, and sometimes they are enumerated in great detail. The powers which the board of education may exercise are determined by the organic laws of the district, as interpreted by the courts.

The more important city school districts whose boards of education are not bodies corporate are—Baltimore, Chicago, Nashville, Rochester, Syracuse, San Francisco and New Haven. The board of education for the city of New York is guaranteed "the powers and privileges of a corporation"[39] for specific purposes. The title to all school property is vested in the city but "suits in relation to such property shall be brought in the name of the board of education."[40] In some instances the board of education is not a body corporate but resembles directors of a corporation. The school district is the corporation. Practically, this is a distinction without a difference, though legally the distinction is important.

Composed of lay members. Boards of education are composed almost exclusively of lay members. This is true of those members acting in an ex-officio capacity, as well as of the regularly elected or appointed members. The superintendent of schools is sometimes made a member of the board, but without the right to vote. Usually boards of education are provided for by direct legislative enactment, but in a few instances the city council is empowered to create such board by ordinance and to prescribe its duties. In one unimportant instance the mayor and the city council are declared to be the board of education.

Number of members. The number of members which may compose a board of education differs greatly. At the present time there is a decided tendency towards small boards. Only comparatively few boards are now composed of more than fifteen members, and some of the most important city school districts

[39] Charter, Section 1062.
[40] Charter, Section 1065.

have boards of five members or less. The state of Pennsylvania has been conspicuous for city school districts with boards of large membership,[41] but recently proposed legislation provides for the two districts of the first class boards of fifteen members, for districts of the second class boards of nine members, and for all others boards of five members. Outside the state of Pennsylvania, there are scarcely a dozen city school districts of importance which have boards composed of more than fifteen members. New York, Chicago, Philadelphia, Cincinnati, and Providence are the most important cities with boards of education with a large membership.[42] The new charters proposed for New York and for Chicago[43] reduce the membership of these boards to fifteen.

---

[41] Philadelphia 21
Pittsburgh 45
Allegheny 90
Reading 64
Harrisburg 30
Scranton 22
Lancaster 27
Erie 18
Norristown 22
Johnstown 21
McKeesport 22
South Bethehlem 15
Mt. Carmel 12

In Pittsburgh there are 45 sub-districts each having a board of education with power "to levy a local tax; to elect teachers; to purchase grounds; to erect school buildings; to provide school equipments; to employ janitors; to perform all duties necessary for the maintenance of the schools, except paying teachers and providing pupils with text-books, stationery, etc."

Each one of these boards elects every three years a member of the Central Board of Education. This member may or may not be a member of a sub-district board.

Allegheny has 15 sub-district boards not unlike those of Pittsburg, each composed of six members. These sub-district boards make up the central board, giving it a membership of 90.

[42] Some of the more important city school districts with large boards are: New York, 46; Providence, 43; Worcester, 30; Cincinnati, 27; Chicago, 21; Wheeling, 21; New Orleans, 20; New Bedford, 18; Detroit, 17; Peoria, 16; Somerville, 16.

The general code of Ohio provides that the Board of Education for city school districts shall be composed of not less than two nor more than seven elected at large, and not less than two nor more than thirty elected from and by sub-districts. Under this provision Cleveland has a board of seven members, five elected at large and two from sub-districts, and, as is seen above, Cincinnati has a board of 27 members: three are elected at large and twenty-four from and by sub-districts. The state Legislature of 1908 passed an act reducing the possible size of the Board of Education, but an attempt was made to make certain features applicable only to certain cities, and the act has been declared unconstitutional.

[43] See the Report of the Educational Commission of the city of Chicago, 1898.

Several bills have recently been introduced into the legislature of the state of Rhode Island providing for a board of education for Providence of small membership. Those city school districts in which ward or other local representation is provided for have as a rule the boards of larger membership.

Of seventy of the more important city school districts chosen more or less at random from thirty different states (not including Pennsylvania), eleven have boards of more than fifteen members and twenty-five have boards of more than nine members. In twenty of these twenty-five ward or other local representation is provided for. Twelve of the other districts have boards of nine members, ten of seven members, six of six members, thirteen of five, one of four, and three of three members.

The following table will show by states the size of the boards of education provided for by the general laws:

Alabama	5
Arkansas	6
California:	
1st class	12
2nd class	7
3rd class	7
4th class	..
5th class	5
Colorado:	
1st class	5
2nd class	3
Idaho	6
Illinois:	
Chicago	21
Others	6
Indiana:	
1st class	5
Others	3
Iowa:	
1st class	7
Others	5
Kansas:	
1st class	6
2nd class	6
Kentucky, each ward	2
Michigan:	
4th class	6
Minnesota:	
Independent	6
4th class, each ward	2
at large	1
Mississippi:	
Separate	5
Missouri:	
1st class	12
2nd class	6
Others	6
Montana:	
1st class	7
2nd class	5
3rd class	3
Nebraska:	
Metropolitan	15
1st class	6
New Jersey	9
New York:	
2nd class	3
North Carolina	5–7

North Dakota:	
Independent	*
Special	5
Ohio	at large, 2–7
	by wards, 2–30
Oklahoma:	
1st class, each ward	1
Oregon:	
1st class	5
2nd class	3
3rd class	3
Pennsylvania:[44]	
1st class	15
2nd class	9
3rd class	5
South Dakota	5
Tennessee, not exceeding	6
Texas	7
Utah:	
1st class	10
2nd class	5
Washington:	
1st class	5
2nd class	5
Wisconsin:	
1st class	15
General Charter.	
each ward	1
at large	3
Wyoming	3
Electors may vote	6

Boards of Education in the one hundred largest cities, according to the census of 1900:

New York, N. Y.	46	appointed by the mayor.
Chicago, Ill	21	appointed by the mayor.
Philadelphia, Pa	21	appointed by court of common pleas.
St. Louis, Mo	12	elected.
Boston, Mass	5	elected.
Baltimore, Md	9	appointed by the mayor and confirmed by 2nd branch of city council.
Cleveland, O	7	elected.
Buffalo, N. Y	7	Committee of the City Council.
San Francisco, Cal	4	appointed by the mayor.
Cincinnati, O	27	elected.
Pittsburgh, Pa	45	elected by the local boards.
New Orleans, La	17	elected, and 3 ex-officio.
Detroit, Mich	17	elected.
Milwaukee, Wis	15	elected.
Washington, D. C.	7	appointed by the Commissioners.
Newark, N. J	9	appointed by the mayor.
Jersey City, N. J	13	appointed by the mayor.
Louisville, Ky	14	elected.
Minneapolis, Minn	7	elected.
Providence, R. I	30	elected, and 3 ex-officio.
Indianapolis, Ind	5	elected.
Kansas City, Mo	6	elected.
St. Paul, Minn	7	appointed by the mayor.

* 1 from each ward; where only three wards, 1 from each ward and 2 at large; where even number of wards, 1 elected at large.

[44] Recommended by the Educational Committee of 1909.

Rochester, N. Y.	5	elected.
Denver, Col.	5	elected.
Toledo, O.	5	elected.
Allegheny, Pa.	90	elected, made up of 15 local boards.
Columbus, O.	15	elected.
Worcester, Mass.	30	elected.
Syracuse, N. Y.	7	elected.
New Haven, Conn	7	appointed by the mayor.
Paterson, N. J	8	appointed by the mayor.
Fall River, Mass.	9	elected, Board of Aldermen determines number.
St. Joseph, Mo	6	elected.
Omaha, Neb	15	elected.
Los Angeles, Cal.	7	elected.
Memphis, Tenn.	5	elected.
Scranton, Pa.	22	elected over 100,000 population.
Lowell, Mass.	9	elected.
Albany, N. Y	3	appointed by the mayor.
Cambridge, Mass	5	elected.
Portland, Ore	5	elected.
Atlanta, Ga.	7	elected, and 2 ex-officio.
Grand Rapids, Mich	9	elected.
Dayton, O.	12	elected.
Richmond, Va	9	elected.
Nashville, Tenn	9	appointed by the mayor and confirmed by the council.
Seattle, Wash	5	elected.
Hartford, Conn.		No central board; district boards only.
Reading, Pa	64	elected.
Wilmington, Del.	13	elected.
Camden, N. J	9	elected.
Trenton, N. J	8	elected, and mayor ex-officio.
Troy, N. Y	3	appointed by the mayor.
Bridgeport, Conn.	12	elected.
Lynn, Mass.	12	elected.
Oakland, Cal.	11	elected.
Lawrence, Mass.	12	elected.
New Bedford, Mass.	18	elected.
Des Moines, Ia	7	elected.
Springfield, Mass	9	elected, and mayor chairman ex-officio.
Somerville, Mass.	16	elected.
Hoboken, N. J	8	elected, and mayor ex-officio.
Evansville, Ind.	3	appointed by the mayor.
Manchester, N. H.	10	elected, mayor and president of common council ex-officio.
Utica, N. Y.	6	elected.
Peoria, Ill.	16	elected, and mayor ex-officio.
Charleston, S. C	6	elected, and 4 appointed by the Governor.

Savannah, Ga.	12	self-perpetuating 9, chosen by mayor 3.*
Salt Lake City, Utah	10	elected.
San Antonio, Tex.	7	elected.
Duluth, Minn.	9	elected.
Erie, Pa.	18	elected.
Elizabeth, N. J.	12	elected.
Wilkesbarre, Pa.	6	elected.
Kansas City, Kan.	6	elected.
Harrisburg, Pa.	30	elected.
Portland, Maine	12	elected, and mayor ex-officio.
Yonkers, N. Y.	15	appointed by the mayor.
Norfolk, Va.	12	elected by city council in joint session.
Waterbury, Conn.	7	elected, and mayor ex-officio (Chapter 170, Laws 1906).
Holyoke, Mass.	9	elected.
Fort Wayne, Ind.	3	appointed by the mayor and council.
Youngstown, O.	7	elected.
Houston, Tex.	7	appointed by the Board of Commissioners.
Covington, Ky.	12	elected.
Akron, O.	7	elected.
Dallas, Tex.	7	elected.
Saginaw, Mich.		
Lancaster, Pa.	27	elected.
Lincoln, Neb.	9	elected.
Brockton, Mass.	9	elected, and mayor ex-officio (chairman).
Binghamton, N. Y.	5	appointed by the mayor.
Augusta, Ga.	15	elected, and ordinary ex-officio.
Pawtucket, R. I.	9	elected.
Altoona, Pa.	6	elected.
Wheeling, W. Va.	21	elected.
Mobile. Ala.		
Birmingham, Ala.	6	elected, and mayor ex-officio.
Little Rock, Ark.	6	elected.

Qualifications of members. The qualifications required for membership in a board of education vary considerably in the different states and in the different city school districts of the same state, whether operating under general or special laws. The whole number of qualifications makes quite a long list. The following are some of those more or less commonly required; qualified elector, qualified school elector, of the male sex, of a specified minimum age, resident of the district for a specified period just prior to election or appointment varying from one to

*1 from each ward; where only three wards, 1 from each ward and 2 at large; where even number of wards, 1 elected at large.

five years in length, freeholder, tax-payer, patron of the schools, not pecuniarily interested, known to be interested in public schools, not a holder of any lucrative public office, not otherwise officially connected with the schools, not a member of the city council, of good moral character, able to read and write. Members before taking a seat in the board are usually required to subscribe to an oath of office. This may be the usual oath of public officers, or it may be a special form containing matter having special reference to the position of board member. Quite frequently the board itself is permitted to judge of the qualifications of its own members.[45] In a few instances members of boards of education are required to give bond conditioned for the faithful discharge of their duties as members.[46]

Elective or appointive. The members of a board of education may be either elective or appointive, but usually they are elective.

Members of all boards of education in Indiana, except those of Indianapolis and Evansville, are chosen by the city councils. In Evansville members are appointed by the mayor, and in Indianapolis they are elected by the people. In New York members of the boards of education for cities of the second class are appointed by the mayor. This is true also in the case of New York City and a few other more or less important cities of the state. Other important school districts having appointive boards are Baltimore, Chicago, Philadelphia, San Francisco, Jersey City, New Haven, Newark, St. Paul. In Philadelphia members of the board are appointed by the judges of the court of common pleas; in the other cities they are appointed by the mayor. The state of New Jersey has a general law provision for both elective and appointive boards, and a city may choose which of the two it will adopt. Only two of the more important cities have adopted either provision: one chose the appointive and the other the elective. In Washington the members of the board are appointed by the Commissioners of the District. In Charleston, South Carolina, four members are appointed by the Governor and six are elected.

---

[45] New Orleans; Holyoke, Wilmington.
Kentucky cities of second and third classes.
Massachusetts, Chapter 354, Laws of 1904, Somerville.

[46] Montana, School Laws of 1903, Sec. 1787—members of boards of education for cities of 20,000 population or over required to give bond for $10,000 each. New York, Chap. 751, Laws of 1895—Hudson.

In the case of elective boards, ward or district representation is quite commonly provided for. This is true also in a few instances where there are appointive boards. The tendency is, however, to get away from this practice or at least away from its evil effects. Two methods have been employed: one is to establish special districts for this purpose, and the other is to have the members elected at large, though still providing that each district or ward be represented in the board. In the state of Ohio, and in a few other instances, the two methods are combined.

There are still a few instances of boards with members serving in an ex-officio capacity.[47] This is frequently true of city school districts in Georgia and in the New England states. In a few instances the mayor is made ex-officio president of the board.[48]

Nomination. In the case of members of boards of education, as in the case of political officers, the question of getting the proper persons before the electors has given no little trouble. Several devices have been employed, and the one which appears to be gaining ground is that of nomination by petition—a plan adopted from England. The petition plan involves presenting to the proper authority, on or before the date specified in the law, a written petition in which a person is nominated for each or any one of the positions to be filled. Usually it is provided that such petitions be signed by a certain number or a certain proportion of the electors of the district. In Colorado, however, any person may become a candidate by filing his name with the secretary of the board eight days before the election.[49] This provision is applicable to all city school districts of the first and second classes. The states and individual cities which have adopted the petition plan of nomination are shown in the following table. The number of persons required to sign each petition and the number of days before election such petition must be presented are also shown.

---

[47] New Orleans; Providence; Atlanta; Trenton; Springfield, Mass.; Manchester; Portland, Me.; Waterbury, Conn.; Augusta; Birmingham; Hoboken; Brockton, Mass.

[48] Springfield, Mass.; Manchester, New Hampshire; Brockton, Mass.

[49] The Annotated School Laws of 1907, Sec. 92. (3 Mills (Rev.)—4009).

State	No. required to sign petition	No. of days before election
Colorado:		
1st and 2nd Class	candidate	8
Indiana:		
1st Class	300	40
Iowa:		
Proposed for all	....	90
Michigan:		
4th Class	25	5
Grand Rapids	100	10
Montana:		
1st Class	20*	10
2nd and 3d Class	5	Not specified
Ohio: All	1% electors	15
Washington:		
1st and 2nd Class		10
Wisconsin:		
1st Class	500	10
Delaware:		
Wilmington	25	15

Time of renewal of membership. There is no uniformity with regard to the time of electing or appointing members of the board of education. Members are elected or appointed in one or more city school districts every month of the year, and almost every week. Quite frequently separate school elections are provided for. In such cases and in cases of appointive boards, the time might be well correlated with such interests as the time for making annual estimates, or the close of the fiscal or of the school year. Where only a single member is elected or appointed to a board of eleven members, for example, the time of making such appointment or of such election becomes unimportant; but where a considerable proportion of the membership changes each year, some such correlation would seem to merit more general consideration.

* Nominations must be made in a meeting of electors called for the purpose at which at least 20 are present.

Tenure of members. The tenure of the members of boards of education differs in the different states and in the different city school districts of the same state. In some instances, however, members of all the boards in a given state have the same tenure. Generally, where different tenures obtain, a longer tenure is provided for members of the boards of education for the larger districts.

Exceptions to this rule may be found in Kentucky, where members of the boards of education for city school districts of the first and second classes have a two-year tenure and members of the boards of education for city school districts of the third and fourth classes have a tenure of four years. In the state of Montana the tenure of members of the boards for districts of the first class is two years and the tenure of members of the boards for the districts of the second and third classes is three years. The general charter for cities of the first class in California provides for members of the boards of education a tenure of two years, while with regard to all other city school districts in the state, which are provided for under general laws, the tenure is four years.

The tenure most commonly provided for is that of three years. In some thirty-six states a three-year tenure is provided and made applicable either to all or to one or more classes of the city school district. On the other hand, a tenure of five or six years is provided in the case of some of the most important city school districts. A tenure of two or of four years is not uncommon, and a tenure of seven years is provided for members of the board of education for Washington, D. C.[50] The members of the board of education for an unimportant city school district in the state of Georgia are given a tenure of eleven years, one member being elected each year.

Tenure of *two* years: all city school districts of Alabama having a population of six thousand or over and provided for under general laws; all city school districts of Texas provided for under general laws, also Dallas; city school districts of the first and second classes in Kentucky, of the first class in Montana and in California; and a number of city school districts provided for with regard to this by special charters, such as Jersey City, Patterson, Hoboken, Elizabeth, Somerville, and Portland in Maine.

[50] Seven year tenure also in Poughkeepsie, New York.

Tenure of *four* years: all city school districts in Ohio, and in Idaho; all city school districts in California which are provided for under general laws, except those of the first class; city school districts of the third and fourth classes in Kentucky; those of the first and second classes in Utah; all Parish boards in Louisiana; and such city school districts as those of Indianapolis, New Haven, Rochester, Syracuse, Wilmington, San Francisco, Detroit, Memphis, Scranton, and Charleston in South Carolina.

Tenure of *five* years: all city school districts of the first class in Colorado and in Oregon; also New York, Yonkers, Hudson, Binghamton, Cohoes, Kingston, in the state of New York; and Knoxville in Tennessee.

Tenure of *six* years: city school districts of the first class in Nebraska and in Wisconsin; city school districts of the second class in New York and in Missouri; Baltimore, Minneapolis, Wheeling, Oswego, Ogdensburg.

Partial renewal of membership. The practice of partial renewal of membership in boards of education is universal. Such partial renewal usually takes place annually, though in not a few instances a biennial partial renewal is provided for. The measure of the renewal which may take place in any one year will depend upon several things—the number of members of which the board of education is composed, the tenure of the members, whether annual or biennial partial renewal is provided for. If an annual partial renewal is provided for, the measure of renewal which may take place in any one year will be as nearly as possible the number of members divided by the number of years of tenure; if a biennial partial renewal is provided for, it will be twice this. This practice of partial renewal of membership of boards is about the same, whether the boards be elective or appointive. If ward or district representation is provided for, the principle of partial renewal is made to apply to such sub-divisions as well, in so far as it is practicable.

Vacancies filled. Vacancies in appointive boards are filled by the regular appointing authority for the unexpired term; but in the case of elective boards various methods have been employed. The most common provision is for the remaining members to fill vacancies, either by a simple majority vote, by a majority of two-thirds, or by a majority of three-fourths. Vacancies in elective boards are thus filled usually only until the next regular election rather than for the unexpired term. In Boston vacancies

are filled "for the unexpired term at the next annual municipal election." In other city school districts of Massachusetts vacancies occurring in a board of education are filled by a joint committee composed of the board of education and the board of aldermen. In Montana vacancies in boards of education for city school districts of the first class are filled by the county superintendent with the confirmation of the remaining members. Vacancies in the board of education for the city school district of Rochester are filled by the mayor.

In Nebraska the boards of education for city school districts of the first class having a population of forty thousand or over fill vacancies subject to the confirmation of the city council. In Missouri and Utah the boards fill vacancies, but should they fail to do so the county commissioners in Missouri and the mayor with the consent of the council in Utah are required to discharge this function. In Colorado the county superintendent fills vacancies in boards for city school districts of the second and third classes until the next election.

Compensation of members. The members of boards of education as members quite uniformly receive no compensation for their services, and usually they are not permitted to receive compensation to be paid out of school funds for services rendered in any capacity. There are, of course, not a few exceptions. The members of the board of education for the city school district of San Francisco receive an annual compensation of three thousand dollars each. This district is unique, however, in that it is the only one for which has been provided a board of education whose members are required to "give their entire time to the duties of their office." The members of the board of education for the city school district of Rochester receive an annual salary of twelve hundred dollars each.[51] Besides these two, there are a few instances of members being allowed small compensation, probably intended merely to meet such incidental expenses as they must incur in connection with the services they are required to perform. The amount of such compensation is sometimes determined by the board, within a very narrow maximum, and sometimes it is left to the discretion of the city council.

The following are a few instances of provisions compensating members of boards of education: Utah, city school districts of

[51] New York Chap. 755, Laws of 1907, Art. II, Sec. 21—Rochester.

the first and second classes; Montana, city school districts of the first class with a population of 20,000 or over; Indiana, city school districts with a population of less than 50,000. In the case of Utah the amount is fixed by the board, not exceeding in any one year the sum of one hundred dollars; in the case of Montana, not exceeding two hundred and eight dollars; in Indiana the amount is fixed by the city council. In Memphis the president of the board and the chairman of the buildings committee of the board may each receive a sum not exceeding six hundred dollars annually, and members a sum not exceeding four hundred and eighty dollars.

Removal of members. Frequently no special provisions are made for the removal from office of members of the board of of education. Where such provisions are made, in the case of elective boards the authority to remove is usually vested in the remaining members; in the case of appointive boards the authority is vested in the officer or body possessing the power of appointment. Members may be removed only for cause, after charges have been preferred and a hearing had. In a few instances it is specifically provided that the accused member shall be permitted to have counsel at the hearing. A majority of two-thirds is sometimes required for the removal of members where the authority is vested in the board.

In Pennsylvania,[52] if a member of the board of education neglects to attend any two regular meetings of the board in succession, unless detained on account of sickness or prevented by absence from the district, or to act in his official capacity when in attendance, the remaining members may declare his seat vacant and appoint someone in his stead. In New Jersey,[53] a member who fails to attend three consecutive regular meetings may be removed by the board. In Nebraska[54] absence of any member from four consecutive regular meetings, unless on account of sickness or consent of the board, shall vacate his position on the board; similarly in the case of boards for city school districts of the first and second classes in Washington[55] and Wisconsin.[56] The board of education for New Orleans[57] shall declare vacant the position of any of its members who shall

[52] P. L. p. 618, Sec. 8; School Laws, p. 24–25.
[53] P. L. p. 618, Sec. 8; School Laws p. 24–25.
[54] School Law, Revision of 1903, p. 16–17.
[55] School Laws, Subdivision XIV, Sec. 16—Schools in Cities.
[56] Code of Public Instruction, Session Laws, Chap. 118, Sec. 90, 1897.
[57] Laws of 1904, Act 167, Sec. 73.

have failed to perform the duties assigned to him or who shall have absented himself from two consecutive monthly meetings of the board without leave. In St. Louis[58] any member failing to attend three consecutive regular meetings, unless excused by the board for satisfactory reasons, is deemed to have vacated his seat.

Organization required. The members of the boards of education are quite uniformly required by law to meet and organize. They are vested with authority to make by-laws for their government and rules and regulations for the discharge of duties imposed upon them.[59] These by-laws, rules, and regulations, when not inconsistent with the laws of the state or of the United States or with rules and regulations of any superior administrative authority, may have the force of law.[60] Where the provisions of the law are general in character, these become very important.

Time of organization. There is no uniformity as to the time at which the boards of education shall organize, except that it is usually provided that such organization shall take place at the time of induction into office of new members. New members are sometimes inducted into office immediately upon their election or appointment, but more commonly their induction into office takes place from a few days to several months thereafter. In West Virginia, members of boards of education are elected in the month of November and their term of office does not begin until the following July. Boards of education are required to organize or to reorganize annually, but in a few instances biennial reorganizations are provided for. This is true of all city school districts in Utah, and of the city school districts of Minneapolis and of Wilmington.

Offices which may be filled by members. The only office provided for in the organization of boards of education which the board is uniformly authorized to fill by selecting one from among its own members is that of vice-president. This office is commonly of little importance and frequently not specifically provided for. Usually the board is authorized to choose one of its members for president, quite commonly a member may be chosen for

---

[58] Charter of the Board of Education of the City of St. Louis, Sec. 20.

[59] Wisconsin, Chap. 459, Laws of 1907, Sec. 5.

[60] Blue v. Beach, Supreme Court of Indiana, 155 2d., 121. School Laws of Minnesota, of 1907, p. 41.

secretary, and not infrequently a member may be chosen for treasurer. But all these positions may be filled, and that of treasurer very often is filled, by persons, not members, acting in an ex-officio capacity. This is never true of the office of vice-president. The office of president, besides being sometimes filled by an officer acting in an ex-officio capacity, is in a few instances filled by election by the people or by appointment by the authority vested with the power to appoint the members of the board.

There are a few instances of the mayor of the city being made ex-officio president of the board of education, as in the case of Hoboken, New Jersey; Waterbury, Connecticut; Lawrence, Massachusetts; and Manchester, New Hampshire. The president of the board of education for any city school district in Illinois, provided for under general laws and having a population of less than 100,000, is "elected annually, at the same time the members of the board of education are elected." The president of the board of education for the city school district of Wilmington is elected at large for a period of four years. The President of the Board of Education for the city school district of Dallas, Texas, is elected and has veto power over acts of the board. The mayor of the city of Baltimore is required to designate one member as president at the time of making the appointment.

Custodian of school funds. It is sometimes provided that a bank shall be made the custodian of school funds, in which case a treasurer may or may not be provided. In Kentucky, the secretary of the board of education for any city school district of the first class is required to receive all school funds and deposit them in a bank designated by the board. The office of treasurer is not provided for. In Ohio, where depositories for school funds are provided for, there may or may not be a treasurer, at the discretion of the board. In Texas, it is provided that "in cities having more than ten thousand population the board shall appoint as treasurer the person or corporation who offers satisfactory bond.....and the best bid of interest on the average daily balance for the privilege of acting as such treasurer," and that "in independent districts having less than ten thousand population the board may appoint such treasurer as is provided for towns of more than ten thousand population and under the same provisions." In Montana and in Washington, the county treasurer is made treasurer of boards of education for city school districts.

In Louisiana, the parish superintendent of schools is ex-officio treasurer of the parish board, except in the case of New Orleans, where the city treasurer is treasurer of the board. The treasurer of boards of education for city school districts of the second class in Kansas is elected by the people.

The city treasurer is also treasurer of the board of education, for city school districts of the first class in Illinois, Indiana, and Kansas; in all city school districts in Ohio, Nebraska, Virginia, and New Jersey; in city school districts of the second class in Kentucky; in city school districts of the fourth class and a number of special charter city school districts in Michigan; in city school districts of the second class and a large number of special charter city school districts in New York; and in a large number of special charter city school districts in other states. In Indiana city school districts having fifty thousand population and under, the treasurer is a member of the board; this is true of all city school districts in Wyoming. In Pennsylvania city school districts of the third class, the treasurer may be a member of the board.

Usually the city treasurer, when acting in the capacity of treasurer of the board of education, stands in a relation to that body not different from that of a treasurer chosen exclusively for this office. He may, usually, receive extra compensation for his services as treasurer of the board of education to be paid out of the school funds, and he may be required to give bond payable to such board, conditioned for the faithful discharge of the duties of his office as treasurer of such board.

Officers and employees—distinction. There is a number of offices, besides those of president, vice-president, secretary, and treasurer, which go to make up the full organization of a board of education. These are the only offices, however, in such organization which may be filled by a person chosen from that body. There are a few instances of statutory committees which are composed at least in part of members of the board of education. They are charged usually with special functions, which are sometimes of significant importance.

If an attempt is made to draw a sharp distinction between an office and an employment or between an officer and an employee, it is difficult to determine just what officers have been provided for.[61] If the term officer may be understood to apply only to

[61] Blue v. Beach, Supreme Court of Indiana, 155 Indiana, 121.

those persons in whom some specific powers have been vested or upon whom some special duties have been imposed by statute law,[62] which powers must be exercised and which duties must be discharged, if at all, not by the board of education nor by any agent that body may create by virtue of any general grant of power, but only by such persons, then comparatively few officers have been provided for. Usually, in the small city school districts there are none, excepting those officers who act as officers of the board of education only in an ex-officio capacity and over the selection of whom such board has no control.

Professional officers commonly provided for. Besides the officers already mentioned, other officers most commonly provided for are the superintendent of schools and examiners or members of examining boards. The superintendent of schools is sometimes vested with large powers, which he exercises, however, under the control of the board. Examiners in the exercise of such powers as are vested in them are more or less independent of such control. In the case of a few important city school districts the superintendent of schools is an elective officer;[63] more commonly, however, he is merely an employee of the board of education having no statutory functions to discharge. In a few instances principals and teachers are specifically provided for by law and are declared to be officers, rather than employees.

Non-professional officers sometimes provided for. The most important instances of officers vested with more or less specific

[62] "While there are other criteria which may be of use in distinguishing an office from an employment, the most important means of distinction is that, while an employment is created by contract, an office finds its source and its limitations in some act of governmental power."

"If the provision of law.....provides for a definite position in the public service, fixing the duties to be discharged by the incumbent, his term of office, and the method by which the position is obtained, such position is to be regarded—in the absence of some peculiar statute—as an office and not as an employment. If, on the other hand, the position finds no basis in the law as above defined, but the law is founded upon an agreement made between the person holding such position and some authority in the government, which agreement determines the compensation, the duration of the employment, and the duties to be discharged by the person with whom such agreement is made, such a position is regarded as an employment and not as an office." (Goodnow, Principles of Administrative Law of the United States).

[63] Denver, Colorado; San Francisco, California; Buffalo, New York; and all city school districts of the fourth class in California.

powers and charged with special duties of a non-professional character are to be found in the city school districts of the first class in Missouri and in Pennsylvania, and in the city school districts of New York. For the first of these is provided a Commissioner of School Buildings; for the second a Superintendent of Buildings and a Superintendent of Supplies. For the city school district of New York are provided a Superintendent of Buildings, a Superintendent of Supplies, and an Executive Committee of the board which exercises all executive powers with which that body is vested. For the city school district of the first class in Indiana is provided a Business Director, who not only has large executive powers and duties, but is also given a share in the legislative powers of the board in the exercise of a suspensory veto of "every resolution (of the Board) involving an expenditure of money or the approval of a contract for the payment of money, or for the purchase, sale, lease, or transfer of property, or levying any tax.[64] There are other instances of boards of education being vested with authority to appoint such officers, whose duties, however, are not usually fully prescribed by law and who are invested with no special powers. The board appointing them has authority to prescribe their duties.[65]

The board of education as a legislative body. It has been seen that the only offices provided for, under the control of the board of education, to which a member of that body may be appointed, are president, vice-president, secretary, and treasurer; that the office of president is sometimes filled by the electors or by appointment by an authority other than the board, or by the mayor of the city acting in an ex-officio capacity; that frequently no provision is made for the office of vice-president; that the office of secretary may be filled by a person not a member of the board and frequently must be so filled; and that the office of treasurer is commonly filled by another than a member of the board in accordance with statutory requirement. Thus it would appear that members of the boards of education are being confined in authority to such as is vested in them as members of the board of

[64] School Law of Indiana, 1907, p. 212 Sec. 261. See also Ohio School Laws of 1906, p. 122, (Chapter 9 Sec. 4017) and School Law of New Jersey, 1905, p. 23.

[65] Boston, School Document No. 4, 1908.

education and which may be exercised only as a member of that body. This tendency, together with that of creating executive officers and vesting them with specific powers which, while exercised under the control of the board, may not be exercised by the board, appears to be gradually reducing the board to a legislative body without executive functions.

Regular meetings. Boards of education uniformly hold regular meetings. These meetings are frequently provided for in the statutes as to time and frequency, but sometimes the board is authorized to provide in its by-laws for all matters pertaining to such meetings. There is no uniformity as to the number of regular meetings a board shall hold annually. With a few exceptions these meetings are held in the evening, beginning about seven or eight o'clock. There is no general rule as to the day in the week on which regular meetings shall be held, all days, except Sunday, being about equally represented. The majority of the boards hold regular meetings monthly, though not a few meet regularly twice a month. In some instances it is provided that all meetings of the board of education shall be public, unless otherwise specially ordered. In Illinois none of the powers conferred upon boards of education for city school districts having a population of one hundred thousand or over may be exercised except at regular meetings, and of the powers conferred upon boards for other city school districts provided for by general laws none may be exercised except at a regular or a special meeting.

Regular monthly meetings are required by statute in the case of city school districts of the first class in Indiana and Wisconsin; in the case of city school districts of the first and second classes in Washington; in the case of all city school districts in Kentucky; and in the case of a large number of such districts in California and New York. Boards of education for city school districts in Pennsylvania are required to hold at least one regular meeting every three months; in Nebraska boards of education are required to hold a regular meeting on the first Monday of each month; boards for city school districts of the first class in Montana must hold at least one and not more than five meetings each month, and boards for all other city school districts in Montana a regular meeting on the third Saturday in April, July, October and January. A regular meeting on the last Saturday in March, June, September and December is required of boards for city school districts in Colorado.

Special meetings. Where specific provisions are made by law for regular meetings of the boards of education, it is usually provided also that special meetings may be held upon the call of the president of such board; or, in the case of incapacity or refusal on the part of the president, upon petition signed by a majority or some specified number of members. It is sometimes provided that in the case of such special meetings the object or objects of the meeting shall be specifically stated in the notice and that no other business than that thus stated may be transacted.

Standing committees. With only a few exceptions, boards of education provide in their by-laws for a number of standing committees, to which are intrusted practically all the more important duties imposed upon such bodies by law. As a rule no authority is vested in such committees by statute. They derive such power as they possess from the board which creates them. They are responsible to such board and all their acts are subject to its approval. They constitute a convenient means by which the board of education may discharge the functions which it is required by law to discharge.

The following instances of standing committees provided for by statute may be noted: Committee on Claims in Nebraska; Auditing Committee in Washington, for city school districts having a population of ten thousand or over; and an Executive Committee in New York City. The statutory Committees provided for in the law governing city school districts of the first class in Wisconsin are on sites and buildings, on examining teachers, and on the course of study.

This practice, if employed with judgment and discretion, has much merit, particularly in the case of large boards with executive functions to perform. A study of these committees, however, may show either a great lack of agreement in boards' conceptions of what really are the things of most vital importance in their educational systems or a great diversity of interests varying in importance with the different districts.

In one hundred twelve city school districts examined with reference to these committees there were found nine hundred seventy-six standing committees, or an average of nearly nine to each district. Two hundred fifty-five of these appear only once, that is, there were two hundred fifty-five interests or combinations of interests which were regarded by one board, and

no more, as being of sufficient importance to merit the attention of a special standing committee. Fifty-four of these committees appear twice, sixteen three times, fifteen four times, three six times, and so on. Of these one hundred and twelve boards, seventy-three provided for a separate standing committee on finance; twenty-five others provided a standing committee whose chief duties had to do with finance, though other duties were required. Next to finance comes supplies; thirty-three boards provided a separate standing committee on supplies.

CHAPTER II

FISCAL AFFAIRS

1. Revenues

Introductory. In the treatment of the city school district it is necessary to make a choice between the selection of a few such districts, studying them in all their various phases, and the selection of a larger number and treating only certain selected features which may appear to be the most value in the light of the general purpose in view. Under the present circumstances it has seemed advisable to follow the latter plan, though it may be conceded that the former has much merit. No apology need be offered then for confining further discussion of the city school district to its fiscal affairs. The laws having to do with the professional affairs of such district are comparatively few and simple; while those dealing with the fiscal affairs are over-abundant and complex. The professional side of the city school district has been more or less thoroughly discussed by various writers. Such studies as have been made touching upon its fiscal aspects have to do more especially with the actual activities rather than with the laws which make such activities possible.

The city school district will have to meet the general demand for economy and efficiency only now being made upon other municipal corporations, however far advanced in these respects it may be; and any information that will throw light upon the present status of such district, under the law, with respect to its fiscal matters cannot be without value. It will be the aim then in these remaining pages to show in as large measure as possible within the brief space necessarily allotted the provisions which have been made for a regular supply of funds for the city school district and for the expenditure of and accounting for such funds. It is convenient to consider successively the various sources of revenue, the means provided by which such revenue may be made available for use, the provisions for the safe keeping of the unappropriated moneys, the control provided in connection with expenditures, and the provisions for final accounting.

Various sources. The revenues of the city school district are derived from various sources. The two most important are the state and county apportionments and the local property tax. A very important source of revenue for the city school district, though a secondary one, is that of bond issues. There appears to be a tendency towards depending more and more upon the issue of bonds for revenue for school-house construction and other permanent improvements. If limited to these purposes this source of revenue is a very proper one. It is, however, sometimes employed to secure revenue for other, temporary purposes, a practice which should be severely condemned. Another source of revenue is found in the sale of school property. Interest on unappropriated school funds constitutes a source of revenue for the city school district, which has only recently begun to be recognized. Poll or personal and excise taxes, fines, and tuition fees paid by non-resident pupils, constitute other sources of revenue of varying importance. Corporation and inheritance taxes are also sources of revenue in a few instances. From the point of view of immediate needs and funds with which to meet them, the not uncommon provision authorizing boards of education or other authorities acting in behalf of the city school district to borrow money in anticipation of current revenue becomes important.

State apportionments. Some of the states have established permanent school funds, the income from which is regularly apportioned to the various local districts of the state upon some established basis. In some states a general tax is levied, or regular appropriations are made for the support of the public schools within the state. In a few states there is also a county tax, the revenue from which is apportioned to the various local districts within the county. In all states one or other of these systems or a combination of two or more of them obtains. Various methods have been provided for the apportionment of these funds.[1] Different bases of apportionment have been employed. But, whatever the basis, the city school district shares in such apportionment, and in no case is it discriminated against as a city school

[1] Cubberley, School Funds and their Apportionment.

One half the net income of California is annually paid out for education, and the state pays 46% of the cost of the public schools. The average state pays only 16% of that cost. Proceedings of the National Educational Association 1907, p. 350.

district. Where efforts to equalize educational opportunities have been successful, the city school district does not receive its pro rata share of such apportionments. This is due, however, not to the nature of its organization, but to the fact that concentrated within it is usually a very large proportion of the taxable property of the state, and a portion of the revenue derived therefrom is used by the state in the support of schools in the less favored districts.

Local property tax. In the larger city school districts, in particular, the property tax is the most important source of revenue.[2] Provisions for revenue from this source differ in the different states, and sometimes in the city school districts of the same state as well. Usually a maximum rate, a certain per centum of the assessed valuation of the taxable property of the district, is established; sometimes a certain rate is established and provisions made by which such rate may be increased within prescribed limits; sometimes two or more maximum rates are established, and the purpose or purposes specified for which the revenue derived in accordance with each rate may be expended. Sometimes it is provided that the electors or the taxpayers of the city school district shall determine the rate, maximum or absolute. Where rates are thus determined, either the regular taxing authorities are required to levy a rate, not exceeding the rate fixed, sufficient to produce the funds needed, as determined by the school authorities, or the school authorities themselves are authorized to make such levy.

A minimum as well as a maximum rate may be established. In many instances the rate determined is the maximum which the taxing authorities are required to raise upon the recommendation of the school authorities, and not necessarily the maximum rate which may be raised. This is very commonly true where the city council shares in the responsibility of determining the amount which shall be raised. Where this maximum rate is low it becomes, in effect, from the point of view of the city council, a minimum rate. In some instances the city council may, upon the recommendation of the school authorities, determine upon a higher rate than that which such authorities are empowered to demand. Sometimes, the city council or other authority, not of the city

[2] Public School Finances, What Next? N. E. A. 1907, p. 359.

school district, may determine absolutely the amount or amounts of money which may be raised for the support of schools and other school purposes, being entirely unrestricted by any statutory limitations applicable exclusively to such matter. In a few instances the authorities of the city school district are vested with such power. These different provisions may now be considered more in detail.

For the present, when the amount or amounts of revenue desired have been determined, it is unimportant whether the actual levy is made by the school authorities or by the regular taxing authorities, since this consists merely in the arithmetical process of determining the rate, other factors being given. If the school authorities determine the rate, they do so upon the basis of the tax duplicates provided by the regular taxing authorities; if the regular taxing authorities determine the rate, they proceed in the same manner. In no case has any school authority power to fix the valuation of property for purposes of taxation.[3]

Maximum amount based upon valuation of property. The following table will show the rates in cents on one hundred dollars fixed by law in a number of states. Where the rate given is merely suspensory it is so indicated. Where it is not suspensory it is final and represents the normal maximum rate of taxation for school purposes. A high rate does not necessarily signify a large amount of revenue, for this depends also upon the assessed valuation of the taxable property. Such property may be assessed at something approximating its real value or at a value much lower.[4]

State District	Maximum Rate in Cents on $100.00
Illinois	50
Indiana:	
1st class	57
Under 50,000 population	50
Kansas	200
Kentucky:	
1st class	36
2nd class	35
3d class	50
4th class	50

[3] In a few important instances it is provided that certain changes may be made or errors corrected by the Board of Education.

[4] In some instances provisions are made for additional funds for specific purposes, and in some instances it is impossible to know just what the

Michigan:		
4th class		125
Minnesota:		
50,000 population or over		160
20,000 and under 50,000		170
Mississippi	suspensory.	30
Missouri.:		
1st class	suspensory.	60
Others	suspensory.	40
Montana		50
Nebraska		250
North Dakota		300
Ohio	suspensory.	120
Oklahoma:		
1st class		200
Pennsylvania		260
South Dakota		250
Utah		80
Washington	suspensory.	100

The maximum rate given in the table for Mississippi[5] is the maximum rate which may be levied without the consent of the taxpayers; with such consent there appears to be no limit. With regard to all city school districts in Missouri, the rates given may

---

laws do provide for. Since, however, these figures cannot be taken as a guide for determining the amount of funds which may be raised in any particular case, it does not seem necessary to trace out these differences.

In some of the more important city school districts in Pennsylvania, the possible levy of 13 mills for school houses is rarely made. It was made only once in Harrisburg, and then only partly collected. As a rule, when it is desired to construct a school house, bonds are issued and redeemed out of the fund provided under the possible levy of 13 mills for general expenses.

The present levy (1908) made by the city school district of Harrisburg is only six and one-fourth mills, or less than one-fourth of the possible levy for all purposes. The assessed valuation of taxable property in Harrisburg is $42,000,000, while the actual valuation is about $60,000,000. A city school district in Pennsylvania may use either the city or the county valuation. Harrisburg uses the city valuation, which is always higher.

Thus it would appear that the city school districts in Pennsylvania are practically unrestricted as to the amount of money they may raise for schools (not applicable to Philadelphia). How far this is true of city school districts in other states can be determined only when the above facts are known with regard to them.

[5] Annotated Code of 1906, Sec. 4014.

be increased by forty cents on the one hundred dollars with the consent of the majority of taxpayers,[6] and with the consent of two-thirds of the taxpayers voting there appears to be no limit.[7] In Ohio an additional levy may be made if approved by the electors, not exceeding five mills on the dollar nor for a longer period than five consecutive years. The question of issuing bonds may be submitted to the people and, if approved by a majority voting, bonds may be issued and an additional tax levied sufficient to pay principal and interest.[8] In the case of Washington, the rate given is that for city school districts having a population of ten thousand or more, or forty or more teachers, and may be doubled with the unanimous consent of all the members of the board of education. In addition to this, provisions are made for lump sums for school buildings and sites, varying in amount from fifty thousand dollars maximum for city school districts of ten thousand population or forty teachers to two hundred thousand dollars for city school districts of one hundred thousand population or four hundred teachers. It is still further provided that the question of raising additional funds for this purpose may be submitted to a vote of the people. An additional levy for city school districts of the second class in Kentucky for a sinking fund, not exceeding ten cents on the one hundred dollars, is provided for.[9]

In some instances, the rate given represents the sum of two or more rates as well as the maximum. In Illinois, it is provided that twenty-five cents only may be used for general support and twenty-five must be reserved for school houses, school sites, and school equipment. In the case of city school districts of the first class in Indiana, in addition to this maximum rate for all property tax, some half dozen maximum rates have been determined according to the purpose for which the levy is to be made. The sum of these rates would be, however, more than double the maximum rate given. Thus not only the maximum amount of money which may be raised in any one year for all purposes is determined, but the maximum amount which may be raised for a half dozen different purposes also. In the case of the city school districts of the first class in Kansas, having a population of thirty-eight thousand or over, three of the twenty

[6] Constitution Article X, Section 11.

[7] For School Houses.

[8] Ohio School Laws, 1906, Section 3959.

[9] Section 45, p. 41–42, School Laws, 1907.

mills must be expended for buildings and sites. In the case of the city school districts of the fourth class in Michigan, fifty of the one hundred and twenty-five cents must be used for building and sites, and at least one-half of the whole must be expended for general support of schools. In Minnesota also, in the case of city school districts of fifty thousand population, one-half must be used for buildings and sites and one-half for general support; of twenty thousand population and less than fifty thousand, ninety of the hundred seventy must be used for general support. In Pennsylvania the amount is equally divided between general support and buildings, etc.

Minimum amount of funds to be provided. A minimum as well as a maximum rate is fixed in Ohio and Wisconsin. In the former the minimum rate is six mills on the dollar of taxable property;[10] in the latter the minimum is one-half the amount received from the income from the state fund. In the latter case the minimum is determined by the constitutional provision.[11] For the city school district of Binghamton, New York, a minimum rate is fixed at four and one-half times the amount received from the state apportionment.[12] In California, in the case of city school districts of the second, third, fourth, and fifth classes, the maximum rate which the city council is required to levy upon the recommendation of the board of education is determined.[13] This provision is found also in a few other instances. While such rates are in the nature of maximum rates from the point of view of the city school district, they constitute minimum rates from the point of view of the taxing authorities. Provisions of this kind guarantee to the city school district a minimum supply of funds, although the district authorities have no direct powers with regard to tax levies.[14]

---

[10] Ohio School Laws, 1906, Section 3959.

[11] Article X, Section 4.

[12] New York, Chapter 751, Laws of 1907.

[13] Second class, $30; third class, $25; fourth class, $35; fifth class, $25. In the case of the city school districts of the second class the amount may be increased to $40 by a two-thirds vote of the council.

[14] Binghamton, New York, Chap. 551, Laws of 1907. It is provided that neither the Board of Estimate and Apportionment nor the city council shall diminish the aggregate amount to be raised for school purposes so that it shall be less than four and one-half times nor increase it so that it shall be more than six times the amount received from the state for school purposes during the preceding year.

In a considerable number of cases provisions are made not unlike these in effect, but using a different basis for determining the amount which shall be raised. In California, the code for the city school districts of the first class provides that the taxing authorities shall raise, upon the recommendation of the board of education, not exceeding thirty-five dollars per capita of school attendance. The charter of San Francisco has a similar provision, the amount being thirty-two dollars and fifty cents. In New York, in the case of certain city school districts, the taxing authorities or authorities other than those of the district are required to raise upon the recommendation of the board of education a sum based upon a per capita of enrollment.[15] In the case of New York City, the board of estimate and apportionment is required to appropriate a sum equivalent to not less than three mills on every dollar of assessed valuation of the real and personal estate in the City of New York, liable to taxation.[16] In the case of the city school district of Detroit twenty-five dollars per child of school age is provided for maintenance. The city council of Portland in Maine is required to provide, upon the recommendation of the board of education, not exceeding eight cents per capita of population. The chamberlain of Cohoes in New York is required to set apart annually, as soon as they are collected, for the use of common schools, twenty-five per centum of all moneys raised by the common council in each year, except such as may be raised for extraordinary or special objects or local improvements.

Amount to be provided determined by board of education. In not a few instances the city school district authorities have power, unrestricted by any direct and specific legislative enactment, to provide or cause to be provided such funds as the needs of the districts in their judgment require. The board of education for any city school district in Oregon[17] or for any city school district of the first and second class in Colorado[18] is authorized to levy taxes for the support of schools, and is not restricted as to the amount by any statutory limitations. The board of education for the city school district of Ithaca in New York is authorized

[15] Yonkers, $25; Hudson, $20; Watertown, $25; Utica, $15.

[16] Charter Section 1069, as amended by Chapter 43, Laws of 1903.

[17] Laws of 1905, in Oregon School Laws, 1907, p. 53.

[18] M. A. S., Section 4032, in Annotated School Law of 1907, pp. 197–198.

to levy taxes for specified school purposes, using the city tax roll as a basis.[19] With regard to the city school district of Cohoes, in addition to the provision mentioned above, the city council is required "to raise annually by tax, to be levied in the same manner as ordinary city taxes, upon all real and personal estate in said city, liable to taxation. For ordinary city taxes, such sum, in excess of said twenty-five per centum, as shall be required by the board of education as shown by its estimates and requisition submitted to the common council, as provided."[20] Among other city school districts for which the city council is required to raise the amount of money for schools requested by the board of education may be mentioned those of Newburgh,[21] Amsterdam,[22] Oneonta,[23] Plattsburgh,[24] and Rome.[25] Except in the case of the first, the resolution of the board of education making request for funds for schools must be passed by a majority of two-thirds of all the members.

Amount to be provided determined by other authorities. On the other hand there is quite a number of city school districts which are dependent entirely upon other than the school authorities for their supply of funds. This appears to be quite generally true of the city school districts in Massachusetts. Of such districts in other states may be mentioned all city school districts in New York which are governed by the general charter for cities of the second class; also the special charter city school districts of Syracuse,[26] Auburn,[27] and Niagara Falls;[28] the city school districts of Baltimore,[29] New Haven,[30] Providence, and Washington. In all these instances the schools are provided for as a department of the city government; and all power to provide money for schools is vested in the authorities discharging similar

[19] New York, Chapter 503, Law of 1908, Title VII.
[20] City Charter Title VI, Section 12.
[21] New York, Chapter 203, Laws of 1907.
[22] New York, Chapter 65, Laws of 1905.
[23] New York, Chapter 454, Laws of 1908.
[24] New York, Chapter 319, Laws of 1904.
[25] New York, Chapter 650, Laws of 1904.
[26] New York, Chapter 543, Laws of 1907.
[27] New York, Chapter 234, Laws of 1908.
[28] New York, Chapter 300, Laws of 1904.
[29] Charter, Section 36, p. 43.
[30] Charter, Section 109, p. 50.

functions with regard to departments of the city government. This authority may be either the city council or some other body created for the purpose, such as the board of estimate and apportionment in New York or the board of finance in New Haven.

Disadvantages of this method. This method of providing funds for the schools of the city has been advocated by those who argue for the theory of concentration of powers in municipal government, and it has much to recommend it. Where conditions are such as to justify its adoption, few people will deny its advantages. But such a step may be taken with discretion only where the sense of civic duty predominates over party interests and greed for gain. It is not that education is of so much more importance to the general public than, for example, health and sanitation, good streets and general public improvements; but that the general public is less able to judge of its character and quality, and that the best who engage in the work of public education appear less well prepared, by nature, training, and profession, to defend the just demands of education in the general fight for funds.[31] Any city which has attained the position of being able to place its public schools upon an equal footing with other municipal and state interests within the city and have them supported as they should be supported is to be congratulated. There are reasons for believing that the number is not yet large, and that it is not likely to increase with any great rapidity. Perhaps the most that can be said for the plan is that it is desirable wherever it is practicable. Demands for better sanitary measures and conditions, better streets and public conveniences, come only from an educated public. Public education may be neglected in many ways and the general public be quite ignorant of such neglect. This is not true of the other interests in the same degree. Further, the more education is neglected the more other interests are likely to be neglected; and on the other hand, the more education is encouraged the more other interests will be guarded. The plan is a good one to look forward to as an ideal, but it is not one to be adopted rashly.[32]

---

[31] See Rowe, The Financial Relation of the Department of Education to the City Government—Annals of American Academy of Political and Social Science, Volume XV, pp. 186–203; also Young, Administration of City Schools, ibid, pp. 171–185.

[32] Some of those who argue in favor of giving the city council control

New Jersey plan. In New Jersey a somewhat unique plan has been devised. A board of school estimate has been provided for. This board is composed of two members from the board of education and two members from the city council. The mayor of the city constitutes the fifth member of the board. The board is authorized to determine the amount of money to be raised for "the current expenses of and for repairing and furnishing the public schools" of the district, not exceeding "three-fourths of one per centum of the taxable valuation of the real and personal

---

over the revenues of the city school district point to European countries, where the city schools are uniformly dependent upon the city for their funds. It should be borne in mind, however, that the city in these countries is subject to a strict central administrative control, especially with regard to educational affairs.

It is believed that, when the State has provided a central administrative authority, assisted by a corps of educational experts, with power to require the city to show its disposition and ability to support elementary education as it should be supported before it is permitted to provide for higher or secondary education, any plan to give the city full control over the apportionment of the funds derived from taxation within the city will meet with little opposition. But, so long as the state exercises only a legislative control over the city, the city school district will probably, in general, continue successfully to demand the power to determine the amount of money which shall annually be provided for the support of the public schools within its limits.

The following are instances of what happens frequently under city control of the school finances:

"The lamentable fact that over thirty-eight thousand children are without any school facilities is too serious not to attract and demand immediate attention. This number will be largely increased before the necessary school buildings can be erected, even if ordered now, and there is the greatest danger that the question of locating schools will degenerate into a mere political contest. The members of the board have heretofore studiously avoided anything that might give a political bias or character to their action; but it will be impossible to continue this if the present deadlock on the subject of new schools is continued."—Allen C. Story, President's Report, Chicago Board of Education, 1889.

"The embarrassment and delay which has been the rule under the present plan of requiring the concurrence of the council in respect to sites and buildings is somewhat forcibly indicated in the following extract from President Halle's report for 1898:

Motley School (adjoining lots)—Recommended November 18, 1896, and authorized by Council December 13, 1897; North Oakley Avenue, near Potomac Avenue—Recommended February 24, 1897, and authorized by Council December 13, 1897; Froebel School (adjoining lots)—Recom-

property." This rate may be exceeded only with the concurrence and consent of the city council.[33]

Preparation of annual estimates. The method by which this source of revenue for the city school district may be utilized varies. The first step is the preparation of an estimate or of estimates of the amount of money required for the fiscal year. The duty of preparing such estimates is uniformly imposed upon the board of education. In a few instances provisions are made for having them prepared by some other authority in the case

---

mended March 24, 1897, and placed on file by Council May 16, 1898; Southeast corner Avenue N. and 110th Street, near Loomis Street—Recommended by Board October 20, 1897, and authorized March 23, 1898; Prairie and Forest Avenues—Recommended November 3, 1897, not authorized to date."—Report of the Educational Commission of the city of Chicago, 1898.

"At the last meeting of the Legislature this Board secured authority to issue $300,000 of four per cent. bonds for the purpose of building much needed buildings. On account of the small rate of interest we have been unable to sell them, because we are limited to par. I trust we shall be able to dispose of them soon, and take steps to relieve the overcrowded condition of many of the Grammar Schools. As you gentlemen know, in many of our schools the children are occupying the basement, and in some of the basements they are compelled to use electric lights. This should not be."—C. C. Ogilvie, President of Board of Education, Memphis, Tennessee, Report for 1907–1908.

"The public interested in the matter is aware that the appropriation requested by the Board of Education from the City Council this year was refused, and a much smaller appropriation made."—ibid.

The legislature of 1907 passed an act authorizing the city council of Memphis to levy a tax of ten cents on over $100.00 valuation of taxable property for schools, which if levied cannot be used for any other purpose.—Chapter 87, Laws of 1907.

"The suggestion has been made further, that the Board of Education be allowed to determine, within the limits of the law, the amount of money to be appropriated for school purposes. This is a power widely granted to similar bodies. Experience so far has not shown that this power is liable to abuse. The levying of taxes for school purposes is in the hands of the Board of Education in St. Louis, Pittsburgh, Cincinnati, Cleveland, Milwaukee, Minneapolis, Denver. and Indianapolis, and it is proposed by the new law in Massachusetts to give similar power to the School Committee of Boston."—Report of the Educational Commission of the city of Chicago, 1898.

In addition to references already given, those interested are referred also to: Proceedings of National Educational Association in Educational Review, March, 1897; J. L. Pickard, in Education, September, 1883.

[33] School Law, 1905, p. 25.

of neglect or failure on the part of the board of education to prepare them.[34]

Where the board of education is authorized to make the tax levies, such estimates may be expressed merely in a rate of taxation. Where the maximum amount which may be raised by taxation is not expressed in a rate, the aggregate amount of money required may be sufficient. In such instances the estimates are found in the simplest form. Then we have the segregation of the amounts required for maintenance and for buildings, as in Illinois, in the case of city school districts of the first class in Wisconsin, and in New Haven. In the case of Boston three funds are provided for, maintenance, buildings, and repairs. In Ohio provisions are made for four separate funds, designated as tuition, buildings, contingent, and bonds, interest and sinking fund. In the case of San Francisco, it is provided that the "amounts required for supplies to be furnished pupils, including text-books for indigent children; for purchasing and procuring sites; for leasing rooms or erecting buildings; for furnishing up, altering, enlarging and repairing buildings; for support of schools organized since last annual apportionment; for the salary of the School Directors, Superintendent, Deputy Superintendents, and all other persons employed in the School Department, and for other expenditures necessary for the administration of the Public School system," shall be specified in the estimates.[35]. The board of education for the city school district of Niagara Falls is required in its estimates to specify the amounts needed; "1. For wages of superintendent and teachers after applying all the public school and other moneys applicable thereto. 2. For the repair, enlargement or improvement of school houses, outhouses and grounds with their appendages and appurtenances. 3. For the purchase, repair or improvement of school apparatus, books, furniture and fixtures. 4. For the rent of school houses and rooms for school purposes. 5. For the purchase, maintenance and care of the Free Public Library, library buildings and grounds. 6. For the purchase of fuel and lights, and to pay the salaries of the janitors and the incidental expenses."[36] This fairly represents the provisions made

[34] Minneapolis, City Charter, p. 175 (Chapter 86, Laws of 1885).

[35] City Charter, Chapter V, Section 1.

[36] New York, Chapter 300, Laws of 1904.

for a large number of city school districts in New York, though frequently the amount required for school sites and for school buildings must be specified or the amount for each of these purposes specified separately. In the case of the city school district of Schenectady the contingent expenses of the board must constitute a separate specification in the estimates. In Oneonta a separate specification is required for the maintenance of the high school and the payment of the teachers' salaries, also for the payment of bonds and the interest thereon.[37] In some instances the board of education is required to prepare an itemized statement of the amount of money estimated to be necessary for a specific purpose, or it may be required that the estimates be made in detail, even to specifying the amount needed for the salary of each individual teacher and other regular employees.[38]

It may be required that the amounts provided for such specific purposes shall each constitute a separate fund and that money provided for a given purpose shall be available only for the purpose for which it was provided. Special provisions may be made governing the transfer of money from one of such funds

---

[37] In Oneonta the Board of Education prepares its estimate as follows:

1. Wages of superintendent and teachers, after applying such public school and other funds applicable thereto.
2. Maintenance of high school and payment of teachers, after applying such public school and other funds applicable thereto.
3. Repair of school houses and grounds.
4. Fuel, water, telephone service, lights, salaries of janitors, assistants, other employees, and incidental and contingent expenses.
5. School apparatus.
6. Interest or principal upon school bonds.

New York, Chapter 454, Laws of 1908, Sec. 157.

In Binghamton the following funds are provided for, and the purposes for which money may be expended from each fund are enumerated in some detail:

Site fund, building fund, teachers fund, library and book fund, general fund.

New York, Chap. 751, Laws of 1907.

The following are instances of special provisions for special funds:

New Haven: Buildings and sites, maintenance.

Milwaukee: Support of schools, repair of school buildings and grounds.

Boston: School buildings, repairs, alterations, etc.

Ohio: Tuition, buildings, contingent, bonds, interest and sinking fund.

[38] New York, Chap. 543, Laws of 1907.

to another, making it inconvenient and difficult to effect such transfer.

Submitting annual estimates to taxing authorities. After the estimates have been prepared by the authorities of the city school district, they must in some form and through one agency or another come before the regular acting authorities, whose duty it is to see that they constitute a part of the general tax levy for the current year. The duty of the authorities of the city school district usually terminates with the filing of such estimates with these officers. Assessments and collections are commonly made and the funds are turned into the treasury of each district by the officers who perform similar functions for the city or for the county.

Where these estimates consist merely in determining a rate within the maximum rate (or maximum and minimum rates) fixed by law, it remains only for the board of education to certify to the taxing authorities such rate as has been determined. This is also true in every other case where the board of education is vested with exclusive authority in the matter of determining the amount of money which shall be raised from local taxation. Where, however, this authority is shared with the taxing or other authorities, the process is more complex. For example, the board of education for the city school district of Amsterdam in the state of New York first submits its estimates to the mayor, who has certain limited rights to approve or disapprove them.[39] If he disapproves any item or part of such estimates, he is required to return them to the board with his objections indorsed thereon. The board may then accept the modifications made by the mayor, or it may by a two-thirds vote of all the members sustain the original estimates, in which case they are transmitted to the mayor, who is required to file the same with the clerk of the council. The council is required to include the amount of the estimates in the annual tax and assessment roll of the year. The process is the same in the case of the city school district of Oneonta,[40] except that here the mayor is required to attend the meeting of the board at which such estimates are finally to be adopted and is accorded all the privileges

[39] New York, Chapter 65, Laws of 1905.

[40] New York, Chapter 454, Laws of 1908.

of a member of the board except to vote. Here also the mayor's power to disapprove is not limited, as it is in the case of Amsterdam.

Bond issue. A very common source of revenue, utilized by the city school district for the purpose of constructing school houses, of purchasing school sites, and for other permanent improvements, is found in the issue of bonds.[41] In connection with the grant of authority to issue bonds for such purposes, provisions are made for their redemption with funds derived from local taxation. This, then, does not constitute an original source of revenue for school purposes; nevertheless, from a cross-section point of view of the city school district, the issue of bonds becomes important. Authority is frequently granted also to issue bonds for the payment of outstanding indebtedness.[42]

Conditions. The conditions under which bonds may be issued are usually explicitly determined.[43] In the case of the city school districts which are provided for under general laws, it is usually required that the consent of the electors be first obtained. This is true sometimes also in the case of city school districts provided for by special charter, though in such cases the power to issue bonds is frequently granted by a special act as the occasion requires.[44] In such special acts the conditions under which bonds may be issued, and the purposes for which the money derived from their sale may be expended, are usually specified in some detail.

Consent of electors. Where the consent of the people is required, it may be provided that such consent be expressed by a simple majority,[45] by a majority of three-fifths,[46] or a majority

---

[41] Proceedings of the National Education Association, 1907, p. 354.

[42] Kansas, Chapter 79, Laws of 1903.

[43] Rochester, Charter, p. 51 (New York, Chapter 755, Laws of 1907, Section 96).

Indianapolis, Charter, p. 237.

Kansas, Chapter 196, Laws of 1891; also Chapter 122, Laws of 1876.

[44] This appears to be commonly true in Massachusetts. See Chapter 298, Laws of 1904; Chapter 392, Laws of 1905; Chapter 288, Laws of 1901; Chapter 440, Laws of 1905; Chapter 335, Laws of 1903.

[45] Kansas, Chapter 398, Laws of 1905.

Colorado, School Laws, p. 25.

[46] West Virginia, Code, Chapter 45, Section 39.

Washington, Code of Public Instruction, Section 118.

of two-thirds[47] of those voting. It may be specified that such consent be expressed at an election held for the purpose or at any general election. An election for determining the question of issuing bonds may usually be called by the board of education or by some other authority upon the recommendation of that body.[48] It may be provided, however, that an election for this purpose may be called only upon petition signed by a specified number of electors of the district. In some instances the authorities whose duty it is to call elections for this purpose have no option, but must call an election when required according to law.[49]

Amount limited. Usually the amount of money which may be raised by the issue of bonds is limited. This limitation may be expressed in an absolute figure or in a per centum of the valuation of the taxable property within the district, based upon the city or county assessment. The latter is the more common method. The maximum amount of bonds which may be issued in any one year may be determined, and also the maximum amount which may be outstanding at any one time. The maximum amount of bonds which may be issued in any one year may be determined, and also the maximum amount which may be outstanding at any one time.[50] The maximum amount of bonds which may be issued with the consent of the electors first obtained may be determined, and also the maximum amount which may be issued without such consent. The board of education for any city school district in the state of Washington is authorized to issue bonds "to any amount not to exceed five per cent. of the taxable property in such district as shown by the last assessment roll.....for city purposes," provided that a three-fifths majority

---

[47] California, Act approved March 23, 1893; amended in 1897.

School Law of California 1903, p. 157.

Minnesota—Laws of Minnesota relating to School and Education, 1907; p. 53. Section 100, see also Chapter 20, Laws of 1907; Chapter 21, Laws of 1907.

[48] School Laws of California, 1903. The Board of Education may call an election, and must do so when requested by the council—applicable to city school districts of the fifth class.

[49] Colorado, School Laws of 1907, p. 25: Election must be called upon petition of twenty legal voters.

[50] Kansas, Chapter 398, Laws of 1905.

of the votes cast at an election held for the purpose is in favor.[51] Only a simple majority is required for the issuing of bonds to an amount not exceeding one and one-half per cent.

Time of maturity, interest, denominations, etc. The nature as well as the amount of bonds, and the conditions under which they may be issued, are usually prescribed in some detail. Thus the denominations in which bonds shall be issued are sometimes specified. The maximum rate of interest which they may bear is usually determined. It is quite uniformly provided that bonds shall not be sold at less than par value and accrued interest. The time at which or the period within which bonds shall mature and become payable is prescribed. The duty of selling such bonds is imposed upon some specified authority, and the manner in which they shall be offered for sale is more or less specifically determined. It is usually required that such bonds be advertised and sold at public auction and to the highest responsible bidder, within prescribed limitations.

Certain limitations tabulated. The following table will show, in a few instances, the maximum amount of bonds which may be issued, expressed as a per centum of valuation of taxable property, the maximum rate of interest, and the period within which the bonds must mature. The table is not complete, even for the states included. In some states there are several provisions with different specifications in each case as to these matters. In Indiana there are some half dozen laws under any one of which certain city school districts may issue bonds, the conditions in each case differing in one or more particulars from those specified in the table.

---

[51] Code of Public Instruction, Sections 117 and 118.

Limitations on Bond Issues.

State	Maximum per cent. of property valuation	Period within which bonds must mature	Maximum rate of interest which may be paid
California, General Law	5%	40	8%
Colorado	3.5%	15	8%
Illinois	5%	20	5%
Indiana, unde r50,000	2%	10	5%
Kansas, 1st class	5%	30	4%
Michigan, 4th class	2%	30	
Minnesota	5%	30	6%
Missouri	5%	20	6%
Montana	3%	20	6%
Nebraska		30	6%
New Jersey	3%	50	5%
Ohio	2 mills	40	6%
North Dakota:			
2nd and 3rd classes	5%	20	7%
Oregon		20	Legal rate
Pennsylvania	2%	30	6%
Utah	2%	20	6%
Virginia	2.5%	10–34	6%
Washington	5%	20	6%
Wisconsin	5%	20	
Wyoming	2%	25	6%
South Dakota	5%	20	5%
Oklahoma	4%	30	6%
West Virginia	5%	34	

Provisions as to maturity. The most common practice is to issue bonds payable at a specified time, as indicated in the above tables; but sometimes they are made redeemable at the pleasure of the authority which issued them. Sometimes all the bonds issued are made, not to mature at the same time, but at convenient intervals. In Colorado it is provided that bonds be redeemable after five years, and payable fifteen years from date of issue.[52] In Indiana it is provided that city school districts may issue bonds not exceeding in the aggregate the sum of four hundred fifty thousand dollars, payable at the rate of fifty thou-

[52] The Annotated School Laws of Colorado, 1907, p. 25.

sand dollars annually, beginning twenty-years from the date of issue.[53] Usually, however, all the bonds of a single issue are made to mature at a specified time, and a sinking fund is provided for with which to redeem them at maturity.

Sinking fund. For the purpose of creating such sinking fund it is provided that a certain amount shall be raised annually and be credited to such fund. Money raised for this purpose may not be used for any other. Sometimes it is provided that the sinking fund may be invested, but the nature of the investment is specified. In Kansas, sinking funds may be invested in bonds of the United States, of the State of Kansas, or in the redemption of the bonds of the district.[54] In Ohio, such funds "shall be invested in bonds of the United States, of the State of Ohio, of any municipal corporation, county, township or school district in any state, or in bonds of its own issue."[55] It is required also that, whenever the board of education shall issue bonds for whatever purpose, the issue shall first be offered for purchase to the authorities in charge of the sinking fund.[56]

The duty of providing for the sinking fund or other means for the payment of bonds when due is sometimes imposed upon the board of education,[57] but more commonly upon the taxing authorities of county or city. Sometimes the board of education is required to include in their annual estimates an amount sufficient to pay the interest and the principal when due; but it is usually provided also that in case such an amount be not so included the taxing authorities shall include it. In California it is provided that an owner of a bond, having presented it for payment and payment having been refused, may file it with the State Controller. The board of equalization is then required to add to the state tax to be levied and collected in the district a rate sufficient to realize the amount required, the same to be collected and paid into the state treasury and credited to such district bond tax and paid out on warrants to the holder of such bond.[58] Every precaution seems to be taken

[53] School Laws of Indiana, 1907, pp. 224–225.
[54] Laws relating to the Common Schools of Kansas, p. 122.
[55] Ohio School Laws, 1906, Section 3970–2, p. 61.
[56] Ohio School Laws, 1906, Section 3970–4, p. 62.
[57] Ohio School Laws, 1906, Section 3970–4, p. 62.
[58] Political Code, Part III, Title III, Chapter III, Article XXI, Sec. 1888.

against possible loss or inconvenience to the holder of bonds of the city school district.

Management of sinking funds. The duty of managing the sinking funds and of providing for their investment is usually imposed upon authorities other than those of the city school district. Where a sinking fund commission has been provided for the city, it may be charged with the duty of managing the sinking funds of the city school district. In Ohio, it is provided that the sinking funds of the city school district shall be managed and controlled by a board of commissioners of the sinking fund, to be composed of five electors appointed by the court of common pleas of the county. However, the board of commissioners of the sinking fund of the city may be the board of commissioners of the sinking fund of the city school district. In either case, the commissioners are required to give such bond as the board of education may approve, and to serve without compensation.[59] In Kansas, the board of education for city school districts of the first class is charged with the duty of managing the sinking fund, and the manner in which it shall perform this duty is specifically determined.[60]

Sale of school property. The proceeds from the sale of school property sometimes constitute quite an important source of revenue for the city school district. Not infrequently, however, the title to school property is vested in the city. In Illinois, the real property of city school districts having a population of over one hundred thousand is held by the city in trust for the schools;[61] in all other city school districts it is held by the township in trust for the schools.[62] But, whether such property is vested in the city school district or in some other corporation, it is quite commonly provided that the proceeds from its sale shall not be diverted but be credited to the funds of the district. It is sometimes specifically provided that moneys derived from the sale of school property shall be invested in similar property. The board of education for any city school district of the third

[59] School Law, Chapter 6, Section 3970–1.

[60] Chapter 122, Laws 1876, Article 10, Section 27, et seq.

Chapter 81, Laws 1879, Section 7, provides heavy penalty for neglect or refusal to levy a tax to provide for payment of bonds.

[61] Article VI, Section 25, School Law.

[62] Article VI, Section 13, School Law.

class in Kentucky has power to sell and convey school property "for the purpose of reinvesting all the net proceeds of the same in the purchase of other lots and building thereon other buildings."[63] With regard to the city school districts of the second class, it is provided that "All the property now used for public school purposes in the city, or which may, at any time, be owned by the board of education, and all the funds or means that may, at any time, come under the control of the same, are hereby forever dedicated to the purpose of the public schools of the city, and the title to all property, real and personal, and the property itself, in the city, known and used as public school property, are hereby vested in said corporation, and the same shall forever remain free from any debt or liability of the city, and free from any city or State taxation."[64] In the case of the city school district of Boston, it is provided that the proceeds of any sale of any school lands or buildings shall be held in the city treasury for school purposes.[65] The board of estimate and apportionment for the city of New York is required to appropriate to the special school fund all moneys realized by the sale of personal property under the charge of the board of education.[66]

Conditions. While it is quite uniformly provided that the proceeds from the sale of school property accrue to the city school district, many restrictions are commonly imposed with regard to such sale. In no case may school property be sold except by the authority or upon the recommendation of the board of education. The board of education is not, however, commonly vested with full authority to make sale; and, where it is, certain formalities are usually prescribed. In Ohio, the board may sell school property, valued at more than three hundred dollars, only at a public auction after thirty days notice.[67] In the case of city school districts in Missouri, having a population of more than five thousand and less than one hundred thousand, the board

[63] School Law, Section 317.

[64] Section 1066 of Charter.

Real property is sold by the Commissioners of the sinking fund upon the application of the Board of Education duly authorized and certified, and the proceeds are paid into the sinking fund of the city. Section 220 of Charter.

[65] Chapter 400, Laws 1898, Section 5.

[66] School Law, Section 285.

[67] Ohio School Laws 1906, Section 3971.

of education may sell school property only when approved by a two-thirds vote of all the members.[68] In Utah[69] and Nebraska[70] a two-thirds vote taken at a regular meeting and recorded is required. This is true also in the case of city school districts of the first class in Kansas,[71] and in the case of a few other individual districts.

It is sometimes provided that the consent of the electors shall be first obtained. This is true in Montana[72] and in Washington,[73] and in the case of city school districts of the fourth class in Kentucky. It is true also of a few city school districts in California and elsewhere. More frequently the consent of the city council is required, or the sale is made by the city council upon the recommendation of the board of education. In the case of the city school district of Stockton in California, the board of education may sell school property only when approved by four-fifths of the members and by an ordinance of the city council.[74] The board of education for the city school district of Binghamton, New York, may sell school property (personal) when authorized by the city council; and the board of education and the city council by concurrent action in their separate capacities may sell and convey real estate.[75] In the case of city school districts of the second class in New York, school property may be sold by the board of contract and supply upon the recommendation of the board of education approved by the city council.[76] In Boston, the mayor, the school committee, and the school-house commissioners, acting jointly, are created a board with power to sell and convey land or buildings owned by the city which at the time of such sale are or have been used for school purposes, and which the school committee by a majority vote of all its members shall have voted it advisable to sell.[77] In Virginia the board of education files a

[68] Revised Statutes 1899, Section 9878.
[69] School Laws of 1907, p. 84, Section 1914.
[70] School Laws of 1907, p. 79, Section 21.
[71] Laws relating to the common schools, 1907, p. 119, Section 306.
[72] School Laws of 1903, p. 66, Section 1801.
[73] Section 1, p. 284, Session Laws of 1907.
[74] Charter, Section 83.
[75] Chapter 751, Laws of 1907,; Section 401.
[76] Chapter 560, Laws of 1902.
[77] Chapter 259, Laws of 1906.

petition with the court when it is desirable to sell school property. In Texas it is provided that the consent of the state board of education be first obtained, and that the resolution of such board as well as the resolution of the board of education for the district shall be recited in the bill of sale.[78]

Interest on unappropriated balances. That the daily balances in the treasury, or in some bank, awaiting appropriation might be made a source of income to the city school district appears not to be very generally recognized. The statutory provisions relative to unappropriated funds of such district pertain for the most part only to their safe keeping. That the custodians of these funds have in some instances derived profit from this source has not been unknown. Less than a dozen states have provided that the profit involved in the use of the unappropriated balances of the regular school fund shall accrue to the city school district, and the majority of these have done so only recently.

Provisions for depositories. Ohio appears to have been the first state to recognize this source of revenue. In the year 1880 the legislature of the state of Ohio passed an act authorizing the board of education of any school district to provide for the deposit in a bank or banks of any or all funds coming into the hands of the treasurer of the board and for the payment of a minimum interest of two per centum for the full time that the funds are deposited.[79] In 1885 the state legislature of Kansas passed a somewhat similar act.[80] Similar provision was made

---

[78] Chapter 124, Laws of 1905, Section 146.

[79] Ohio School Laws, Section 3968, p. 57–58.

This act provides that no bank receive a larger deposit than the amount of its paid-in capital stock and that in no event such deposit exceed three hundred thousand dollars; that the bank or banks give a good and sufficient bond of some approved guaranty company in a sum at least equal to the amount deposited. It makes the treasurer and his bondsmen liable for any loss occasioned by deposits in excess of such bond, and relieves them of any liability for funds deposited in accordance with the provisions of the law. It provides further that such deposits be made in the bank or banks that shall offer at competitive bidding the highest rate of interest, but not less than two per centum, for the full time the funds or any part of them are on deposit.

[80] Session Laws of 1885, Chapter 178, Section 1. Banks pay interest on monthly average balance as may be agreed upon between the bank and the Board of Education. This law is applicable only to city school districts of the first class.

in the Charter of Duluth, Minnesota, in 1891;[81] and in the Charter of St. Louis, Missouri, in 1897.[82] In 1903 the state legislature of Missouri provided by enactment that boards of education for city, town, and village school districts " shall select depositories for the funds of such school district in the same manner as is provided by law for the selection of county depositories."[83] The state legislatures of Louisiana and Wyoming enacted depository laws in 1907, which laws are mandatory and apply to all officers or bodies handling public moneys, whether state or local. The Wyoming law provides that " Every county treasurer, city treasurer, town treasurer and treasurer of a school district.....shall deposit, and at all times keep on deposit for safe keeping, in banks incorporated under the laws of the state and in national banks doing business in his county, when designated as depositories by the proper governing board, the amount of moneys in his hands collected and held by him as such treasurer." Any such bank desiring the privilege of becoming a depository is required to make application to the proper governing board on or before the first Monday in April of each year. Good and sufficient bond, approved by the proper governing board, conditioned for the faithful discharge of the duties involved, is required. Deposits are payable on demand, and interest on daily balances at a rate not less than two per centum per annum, and not more than four per centum per annum, as may be determined by the proper governing board. Settlements are made quarterly, in January, April, July and October, and interest is credited to the proper treasurer, to be credited by him to the account of the several funds from which it is derived. The treasurer is relieved from liability on his official bond for money on deposit in conformity with the provisions of the law.[84] The

[81] Special laws of 1891, Chapter 312, Section 12.

[82] Charter of St. Louis, Section 12.

[83] Laws of 1903—Revised Statutes of 1899, Section 9879a. Depositories are selected by the county court, upon sealed proposals, for two years; and a miminum interest of one and one-half per centum paid on daily balances.

In Kentucky, the secretary for the city school districts of the first class receives all school moneys and is required to deposit them in some chartered banks selected by him and approved by the Board of Education. Interest paid on deposits must be accredited to the Board. School Laws, p. 142.

[84] Laws, 1907, Chapter 30.

Louisiana Law provides that the proper authorities shall advertise, giving notice of the time and place of letting out of these deposits, the amount of security required, and inviting qualified banks to bid. The letting is for a period of two years, and must be made to the bank or banks, chartered under the laws of the state or of the United States, domiciled in the state, offering the highest rate of interest, consistent with the safety of the funds, upon daily balances, and giving satisfactory security.[85]

The boards of education for city school districts in Texas, having a population of more than ten thousand, are required to appoint the person (or corporation) treasurer who offers satisfactory bond and the best bid of interest on average daily balances for the privilege of acting as such treasurer. The boards of education for city school districts having less than ten thousand population may do the same in their discretion.[86] In 1908, the legislature of the state of Ohio provided that when a depository had been provided for the school moneys of any district the treasurer might be dispensed with.[87]

These provisions, while important when regarded, as here, merely as a source of revenue, are of much greater importance when regarded as a means of the safe keeping of the school funds. It is not probable that in many instances treasurers of school funds are allowed to risk large amounts in such vaults as are provided for them by the district. In practice the banks are probably the real depositories. Nevertheless, it seems advisable that this should be made a statutory requirement and that the revenue derived therefrom should accrue to the district.

Other sources of revenue. The personal or poll tax is not commonly employed as a source of revenue for the city school

[85] Laws, 1907, Chapter 25, Amended 1908, Chapter 282.

[86] Laws of 1905, Chapter 124, Section 165 et seq. This act does not apply to cities under special charters where the city treasurer is made the treasurer of school funds.

[87] Laws of 1908, supplementing Section 4042 of the revised statutes. The Educational Commission of Iowa has proposed a school code in which it is provided that the county treasurer, who is also the treasurer for the school districts, shall deposit school funds in such banks within the county as shall file bonds approved by him and by the county board of education, such banks to pay the same rate of interest as is received by the state treasurer on state funds deposited in banks. The interest is to be credited to the proper district in the proper proportion.—Report of the Educational Commission of Iowa, 1908, p. 40.

district. Excise taxes, fines, etc. more commonly constitute a source of revenue for the county or the state. Escheats accrue to the city school district in a few instances. It is quite a common practice to charge non-resident pupils who attend the schools of such district for tuition, and in some instances specific provisions are made for this in the law. In a few instances provisions are made for a dog tax, for a corporation tax and an inheritance tax, which accrue in part to the city school district. A few city school districts are provided with special foundations from which revenue is derived.

Provisions relative to temporary loans. Notwithstanding the various and apparently ample provisions for securing to the city school district a sufficient supply of funds with which to meet the demands made upon it, such district may find itself at times without a sufficient amount of money available to meet its current expenses. The circumstances under which such a condition may arise are several. In the first place the appropriations for the current year may not be made for some time after the beginning of the fiscal year for which such appropriations are intended; in the second place, the collection of taxes levied, from which the city school district derives its revenue, may be unduly delayed; and again, emergencies may arise against which adequate provision is not made. Further, the estimates upon which the tax levies are made may be too low, or there may be an entire failure to collect the full amount levied.

Various provisions have been made which are intended to meet such contingencies. These provisions may be of a nature to secure to the city school district always an adequate supply of funds with which to meet promptly all demands made upon it, or they may be of a nature merely to insure those who hold claims against such district against the loss which the absence of funds available in the treasury with which to pay such claims would entail.

Boards of education are quite commonly authorized to borrow money in anticipation of current revenue.[88] The amount a board

[88] Kentucky School Laws, Chapter XXI, Section 290.

New Jersey School Laws, 1905, Article VI, Section 55.

New York, Chapter 130, Laws 1907, Hudson; Chapter 20, Laws 1908, Yonkers; Chapter 149, Laws 1902, Utica; Chapter 304, Laws 1898, Oswego.

Michigan, Charter for cities of 4th class, Chapter 32, Section 16.

may borrow in such a case is usually limited and must be paid out of the funds for the current or the succeeding year. Sometimes it is provided that a board may incur liabilities in an amount not exceeding a certain specified proportion of the revenue anticipated.[89] It is quite frequently provided that warrants drawn upon the treasurer of the district when there is no money in the treasury with which to pay them shall draw a rate of interest from the date on which they are presented for payment until they are paid, or until notice has been given that money is available in the treasury with which to pay them when presented.[90]

But there are still instances where claimants are required to bear whatever loss is entailed by the absence of funds in the city school district with which to pay their claims when presented. Generally, however, where this is the case those who have business relations with the district soon learn to protect themselves against loss of this kind, and in the end such loss falls upon those who are not thus able to protect themselves, such as teachers and other officers and employees.

2. Safe-keeping of School Funds

Treasurer. The usual provision for the safe keeping of the funds of the city school district is that they shall be entrusted with an official commonly known as treasurer. In a few instances such officer is known as chamberlain[91] or as custodian of school moneys.[92] Where a depository for school funds has been designated, the secretary of the board of education may be required to discharge such other functions as are usually imposed

[89] Massachusetts, Chapter 367, Laws 1900—Lynn.

[90] Colorado, 3 mills (Rev.), 2254; or Annotated School Laws 1907, p. 167.

Illinois Act approved April 24, 1899; School Laws of 1906, p. 111.

Minnesota, General Laws 1907, Chapter 445.

Oregon, Code, Section 3389 and Section 3421; also Section 3416.

Virginia, Code, Section 1471—makes buying warrants below face value a misdemeanor.

See also Kentucky School Laws, 1907, p. 155, Section 300; p. 161, Section 321; p. 167, Section 342.

[91] City chamberlain is the name given to the officer performing the functions of treasurer in several cities in New York, which officer is also treasurer of school funds.

[92] New Jersey, School Laws, Article XVIII.

upon the treasurer.[93] The functions of the treasurer are for the most part purely clerical; he has generally no discretionary powers.

Duties. His duties as treasurer are prescribed, and as a rule have to do exclusively with such matters as pertain to the safe keeping of the funds intrusted to him.[94] He receives the moneys of the city school district and disburses them according to law. Other officers are responsible for the proper transfer of school funds to the treasurer, and the treasurer is responsible for their safe keeping and disbursement. A good and sufficient bond, conditioned for the faithful discharge of his official duties, is uniformly required.[95] This bond may be made payable to the city school district, to the president of the board of education,[96] to the county,[97] or to the state;[98] but is usually made payable to the board of education. Sometimes the amount of such bond is specifically determined,[99] but more commonly it is provided that the amount shall be determined by the board of education, though usually under prescribed limitations. Such limitations are generally expressed in the form of a minimum,[100] though sometimes the maximum[101] amount is specified instead. It is uni-

[93] City school districts of the first class in Kentucky (Schools Laws of Kentucky, Section 266–268.), and all city school districts in Ohio, in the discretion of the Board of Education. (Act of 1908, supplementing Section 4042 of the revised statutes).

[94] It is frequently specified that the treasurer "shall perform such other duties as the Board may require."

[95] Where the county treasurer is treasurer of a city school district, no requirement of additional bond is noted; where the city treasurer is treasurer for such district, additional bond approved by the Board of Education is sometimes required, though he may be made responsible on his bond as treasurer for the city.

[96] Texas, Acts of 29th Legislature, Chapter 124, Section 165; New Orleans, Laws of Louisiana relating to the public school, 1908, p. 113.

[97] Nebraska, School Laws of 1907, p. 77.

[98] Missouri, Revised Statutes, 1899, Section 9868.

[99] New Orleans, Laws of Louisiana relating to the Public Schools, 1908, p. 133. Treasurer required to give bond in the sum of $10,000.00.

[100] It is most commonly required that the bond be equal to or double the amount likely to come into the hands of the treasurer in one year. Sometimes whether it is the one or the other depends upon the character of the sureties.

[101] Wyoming, Revised Statutes, 1887, Section 3945. Treasurer required to give bond in a sum not exceeding one and one-quarter times the amount of all the school moneys handled by him in any one year.

formly required that such bonds be signed by one or more sureties or surety companies to be approved by the board of education or other superior authority.[102] Sometimes it is specifically provided that a new bond or additional sureties may be required at any time.[103] In a few instances, the officer or officers whose duty it is to transfer school moneys to such treasurer are made responsible on their bonds for any loss occasioned by the transfer of any amount in excess of the value of his official bond.[104] The method by which school moneys may be transferred into the hands of the treasurer is sometimes determined, and a complete record of such transactions in some office other than as well as that of the treasurer is provided for.

Disbursement of funds. In the disbursement of school funds the treasurer has no discretion. He may disburse such funds only upon an order of the board of education.[105] It is commonly provided that such order shall be signed by the president of the board and countersigned by the secretary. Sometimes warrants are drawn by the secretary and approved by the president of the board. Sometimes the superintendent of schools is required to countersign warrants drawn upon the treasurer of school funds.[106] In a number of instances, such warrants must be countersigned by the auditor or controller;[107] in the case of Chicago, the mayor as well as the controller is required to countersign such warrants.[108]

While the treasurer may refuse to pay a warrant, though drawn in accordance with law, which he knows to be for an

---

[102] Sureties to be approved by the county commissioners.

No provision for bond of treasurer for city school districts of 2nd class in Kentucky.

[103] Ohio, Revised Statutes, Section 4043; Wyoming, Revised Statutes, 1887, Section 3945.

[104] Ohio, Revised Statutes, Section 4048.

[105] In the case of Providence the city council performs all financial duties with regard to school improvements.

[106] Missouri, city school districts of the second class; Oswego, New York (Chapter 304, Laws of 1898). Los Angeles, California; city school districts of the first and fourth classes; California.

[107] Quite commonly so where the treasurer of the city school district is the treasurer of the city.

[108] School Law of Illinois, Article VI, Section 26. In a number of cities in Massachusetts the mayor issues the warrants, after audit by the Board and city auditor.

illegal or dishonest purpose, the presumption is that all warrants drawn according to law are honest and legal, and in general he is required to pay them when presented. Every signature added to such warrants extends the responsibility without lessening it as regards any one officer, and so far tends to protect the school fund against all unjust and illegal claims upon it.

There are a few city school districts where the school moneys have no such protection. The board of education levies the tax and intrusts it for safe keeping to one of its members, who pays it out upon warrants drawn by the board.

Reports. It is quite generally provided that the treasurer shall attend the meetings of the board when required to do so. His books are open to the inspection of members, and he may be called upon at any time to present to the board a detailed statement of his accounts. Regular annual reports are required, and sometimes regular quarterly or monthly reports also. At the expiration of his term of office, he is required to render a complete statement, accounting for all funds which have come into his hands. This statement must be approved by the board of education and sometimes by some other superior authority, before he may receive his discharge.[109]

3. Expenditures

Board of education initial control. The initial control in all matters pertaining to the expenditure of money from the funds of the city school district rests quite uniformly with the board of education. As a rule no other authority is vested with any power of initiative in any matter involving the expenditure of any part of such funds, and very commonly such board has absolute and exclusive power or control with respect to all the funds of the city school district under such limitations as the law prescribes. Not infrequently the responsibility of making provisions for such funds is imposed upon an authority other than the board of education, or some other authority is made to share such responsibility with the board. In matters of expenditure, however, the board of education is commonly in full control; though not a few more or less important exceptions may be found.[110] In a few instances it is provided that where the board

[109] Ohio School Laws, 1906, p. 159, Section 4044.

[110] In not a few instances a library board is provided for which exercises

refuses or fails to discharge such functions another designated authority shall discharge them, exercising in every respect the authority otherwise vested in the board.[111]

Powers of the board of education enumerated. It will be remembered that the powers of the board of education are enumerated and that it may exercise only such powers as are given it. The powers which boards of education may exercise vary with different boards. As a rule, the larger and richer a city school district is the broader the powers of the board of education, though the more minutely enumerated. A board of education for a comparatively small district may have few powers beyond those necessary to the establishment and maintenance of a system of primary and grammar schools. But, in general, a board of education is authorized to establish and maintain high schools also. In many of the more important city school districts boards may provide instruction of a professional character for teachers. Schools for manual training are commonly provided for. Trade and industrial schools are now provided for in many of the more important districts. Provisions are made in not a few instances for public lectures and playgrounds. In recent years vacation schools have been commonly provided for. Kindergartens are in some instances an object of special provisions. In New York there is a complete academic college, and also a normal college, supported by the city; but they are each under the control of a separate board and quite apart from the regular system of schools provided for under the board of education. In some instances also the trade and industrial schools and the playgrounds are under other control than that of the board of education for the city school district.[112] But, in gen-

---

an independent control over the funds provided for library purposes. In some instances, however, the board of education acts as the library board, discharging all functions in connection with the libraries as such board rather than as a board of education. In not a few instances, executive officers are given initial control in certain minor expenditures, but more commonly they act only under the direction of the board in all matters involving the expenditure of money.

[111] Ohio, Revised Statutes, Section 3969: Commissions of the county "shall do and perform any and all said duties and acts, in as full a manner as the Board of Education is by this title authorized to do and perform the same," in case the board fails or refuses.

[112] This appears to be quite commonly true in Massachusetts.

eral, the board of education possesses very wide powers with reference to the number and kind of schools which it may establish and maintain.

Purposes for which expenditures may be made limited. The board of education is, however, quite generally restricted in the use which it may make of the powers it possesses with regard to these matters. While some of the limitations imposed in this connection are of little practical importance, others may leave to the board little or no room for the exercise of discretion in the matter of certain expenditures, reducing its functions in connection therewith to a mere formal routine. These limitations take various forms. For convenience they may be classified according as they have to do with the purpose or purposes for which, the condition or conditions under which, or the manner in which a board may authorize any given expenditure. But since, in general, the board of education possesses authority to direct expenditures from school funds for a very wide range of purpose, limitations in this regard become really only limitations as to the distribution or apportionment of funds to various and different objects for which expenditures may be made.

It has already been seen that the board of education is uniformly required to take the initiative in the matter of providing funds for the city school district from local sources. This consists primarily in preparing an estimate of the amount of funds required for the current fiscal year. It has been noted that such estimate may be expressed in a certain per centum of the valuation of the real and personal property within the district or else in some definite and specific sum. In the absence of further restrictions the board of education may direct the expenditure of any portion of the funds thus provided for any purpose for which it is authorized under the law to make expenditures. In some cases, however, instead of a general single fund, two or more distinct and separate funds are provided for; as many maximum rates as there are funds may be determined. Each of such funds is for a distinct and specific purpose, just as distinct as if it were intended for an entirely independent and separate district. Where such provisions obtain, it is necessary for the board of education to prepare as many separate estimates as there are funds provided for.

Where such separate funds are provided for, the board of education has power to authorize expenditures from any one of them only for the purpose or purposes for which the fund in each case has been created. The board may exercise some discretion in the matter of creating such fund, but, when the fund in any particular case has been established, the purpose for which it has been established must control with regard to its expenditures. In the case of city school districts of the first class in Indiana, six such separate funds are provided for and a maximum rate of taxation is determined for each. Within the maximum the board may determine a rate of taxation which when levied and collected shall constitute the fund desired. This may be done with regard to any one or all of the separate funds for which provision is made. When this has been done and the several separate funds have been made available for expenditure, the board of education may direct expenditures from the several funds only for the purpose or purposes for which the particular fund is in each case provided. The power of the board to exercise discretion in the matter of expenditure is decreased as the number of such funds is increased. This method of limiting the control of the board of education over the funds of the city school district is perhaps lacking in flexibility and may involve an unnecessary amount of legislation. It has, however, the advantage of enabling the taxpayer to know directly the amount he is contributing to any given purpose.

Where a single rate of taxation is established and the board is authorized to prepare an estimate expressed not in a rate but in a specific sum, the board may have power of wide discretion. But in such cases it is frequently required that the board set forth in its estimate not only the total amount needed for all the purposes for which it is authorized to expend money, but also the amount required for each of a number of purposes, or combination of purposes. In effect, a number of separate funds are established. The board is then limited in the authority it may exercise over expenditures from such funds, in that it may authorize expenditures from any one of them only for the purpose or purposes for which it was provided. In such cases, however, it is usually provided that under specified conditions money may be transferred from one of these funds to another, thus somewhat widening the discretionary power of the board. The num-

ber of such funds varies, ranging in general from two to six inclusive. Limitations of this kind are important and should be more commonly imposed. A definite number of such funds, probably not less than four nor more than six, should be determined, and the transfer of money from one fund to another made inconvenient and difficult, though not impossible. In this way boards of education would be required to make their estimates somewhat in the nature of real budgets, and the whole plan of expenditure proposed for a given year would need to be thought out in advance.

In some instances boards of education are required to itemize in great detail all proposed expenditures in their annual estimates and to submit them to some other authority having power to approve or disapprove them, usually under certain limitations. After such estimates have been approved, each separate item constitutes in effect a fund which may be expended for the purpose specified and no other. In some instances, where estimates are not thus subject to approval or disapproval, the board of education is required to prepare a schedule of salaries for its teachers which may not be altered during the year for which it was provided. Where the board of education has power to determine the salary of the superintendent of schools and other officers of the city school district, it may be provided that the salary in each case shall be fixed before such officer enters upon his term of service and may not be reduced during such term. Sometimes the minimum salary which the board of education pays a teacher is determined by law, and in a few instances a complete schedule of salaries for teachers is provided. In not a few instances the salary of the superintendent of schools is definitely fixed and his tenure determined. This is true also of various other officers. In some instances only the maximum that may be paid is determined.

Not infrequently the board of education is limited in its control over funds derived from the state and county apportionments by special provisions which make such funds applicable only to certain specific purposes. In Minnesota these funds must be expended exclusively for the payment of teachers' salaries.[113]

[113] Laws of Minnesota relating to Schools and Education, 1907, p. 67, Section 143.

This is true also, wholly or in part, in the case of Indiana,[114] of South Dakota,[115] of Utah,[116] and apparently a few other states. In California such funds may be used only for the payment of salaries of teachers in the primary and grammar schools.[117] This appears to be true also in Virginia.[118] In Oregon at least eighty-five per cent of this fund must be expended for the payment of teachers' salaries and a penalty is provided in the case of failure to comply with such requirement.[119] In New Jersey a certain amount, based upon the number of teachers and principals or superintendents employed, must be expended for salaries, and any balance may be used for "teachers' salaries and fuel bills, or, by and with the written consent of the county superintendent, for improvement of school houses and grounds, the purchase of school furniture, or for any other purpose connected with the schools" of the district.[120] In Montana "any surplus.....after providing for the expenses of not less than eight months school may, on a vote of the qualified electors ..... be used for the purposes of building and improvement."[121]

Conditions of expenditure prescribed. All these limitations have to do with the power of distribution of the funds of the city school district. The board of education has absolute power to direct expenditures for a certain specific purpose or purposes, but the amount which may be thus expended is limited. In some instances the exact amount which may be expended for a given purpose is determined by statute, in some instances only the maximum amount is thus determined, in others only the minimum amount, and in still others both the maximum and minimum are thus determined. But there are instances also where the power of the board of education to direct the expenditure of money for a given purpose is contingent rather than absolute. The power granted the board of education to direct

---

[114] School Law of Indiana, 1907, p. 171, Section 200.
[115] Political Code, Section 396.
[116] School Law of Utah, 1907, p. 43, Section 1867.
[117] School Law, 1903, p. 104, Section 1861.
[118] School Laws, 1907, p. 82, Section 115.
[119] School Laws 1907, p. 19, Section 27.
[120] School Laws, 1905, p. 79, Section 183.
[121] School Laws, 1903, p. 95, Section 1943.

the expenditure of money for some specific purpose may be made contingent upon the consent of the electors first obtained, or the consent of the mayor or the council or some other designated authority. The board of education is uniformly authorized to employ teachers and to direct the expenditure of money for the payment of their salaries. But it is commonly required that the teachers for the payment of whose salaries the board may direct the expenditure of money shall possess certain qualifications. Such board may or may not have the power to determine what these qualifications shall be, or to determine in any given case whether a teacher possesses the qualifications required. Similar provisions may be made with regard to the officers and employees. The board of education is uniformly authorized to provide for primary and grammar schools; but the subjects which shall be taught in these schools, the relative amount of time which shall be given to any particular subject, and various other details, may be prescribed by law.

How expenditures may be authorized. The manner in which the board may authorize expenditures from school funds may be determined. It is quite commonly provided that all resolutions of the board involving the expenditure of money shall be viva voce and the yeas and nays taken and recorded. In certain instances a majority vote of two-thirds rather than a simple majority is required. In a few instances it is provided that money may be expended only after it has been specifically appropriated. This is a very important provision, and one which should be more uniformly made. Another very important and also very common provision is that all expenditures for certain purposes involving a sum exceeding a certain minimum shall be made in accordance with a contract. Such contract, when it involves a sum exceeding a fixed minimum, shall be let to the highest responsible bidder. It is commonly provided that a board of education may exercise authority vested in it only at a regular or special meeting, and in some instances only by a written resolution which must be recorded.

4. Accounting

Funds disbursed upon order of the board of education. It has been noted that as a rule all funds belonging to the city school district are paid into the hands of some person or corporation

responsible on an official bond for their safe-keeping and proper disbursement. It has been noted further that this custodian of the funds of the city school district, whether a person or a corporation, is vested with no power to disburse these funds except in accordance with the provisions of the law. The law quite uniformly provides that such funds may be disbursed only upon warrants, orders, or drafts issued under certain specified conditions. These commonly involve an initiatory act on the part of the board of education in the nature of a resolution approving each claim presented for the payment of which money from the funds of the city school district is to be expended, and authorizing the drawing of warrants, order, or draft. Such warrant, order, or draft must be signed by the president of the board of education and countersigned by the secretary or clerk. There are not a few unimportant variations from this procedure, but in general it may be regarded as quite the uniform practice.[122]

In these provisions, however, there is nothing which may be construed as involving anything approaching a complete system of accounting. The board of education authorizes the incurring of an obligation. When it approves the claim and authorizes the expenditure of money for the payment of such claim, it merely affirms that the obligation was incurred as authorized and approves the expenditure proposed to satisfy such obligation as represented by the claim presented. Nor are the fundamental principles of auditing here involved. It is sometimes specifically provided that the board of education shall "audit" claims before thus authorizing their payment. But auditing, strictly speaking, will permit the authority empowered to incur the expenditure of money to determine if the money is legally and properly expended. Auditing can really be performed by an authority not interested in incurring the obligation which the claim or expenditure to be audited represents.

Accounting and auditing—distinction. The word "accounting" and the word "auditing" are still very loosely used. In general, the former includes all that the latter stands for. Auditing is a phase of accounting. The simple allowing of an account

[122] The Annotated School Laws of Colorado, 1907, pp. 81–84.
New York, Chapter 304, Laws of 1899, Oswego.
New York, Chapter 577, Laws of 1875, Auburn,.
Kentucky, School Laws, 1908, p. 142, Section 266–267.

is not necessarily involved in either, and is not so involved when the account is allowed by the authority incurring the obligation. Accounting involves, among other things, the establishment of a system of debits and credits which will show at all times the expenditures involved in each important undertaking with regard to which it is important to have such information. Auditing determines if the expenditures are legally made and are properly charged.[123] Accounting takes into consideration every detail of all important transactions involving the receipt or expenditure of money, and devises a system by which all important facts with regard to such transactions may be known at any time. Auditing accepts this system and undertakes to enforce its provisions by searching out and reporting all failures on the part of the responsible agents.

Nature of provisions. It is not certain that in any instance the law contemplates providing for an official to perform the function of accounting in this more specific sense. In comparatively few instances are provisions made for an official whose duty it is to audit the accounts of the city school district. More frequently the board of education is authorized to incur obligations, to allow claims, and to direct expenditure of money for the satisfaction of such claims. In a few instances, it is provided that the board of education shall discharge these duties through its secretary or a standing committee composed of a certain number of its members.[124] It is sometimes provided that an itemized

---

[123] Auditing may be for any one of many purposes. Auditing in connection with the accounts of the city school district is practically for the purpose of detecting and reporting errors. These errors may be of three kinds: errors of principle, errors of omission, and errors of fraud. By "errors of principle" is meant such as are apt to be made by those not proficient in the science of accounting. By "errors of omission" is meant those items which have accidentally been omitted on either side of the account. By "errors of fraud" is meant those entries intentionally made to defraud and to embezzle. Where the purpose of auditing is merely to detect the second class of errors, the board of education will probably not be found incompetent. But where the purpose is to detect the first class of errors, the board of education will hardly be found competent; and certainly it is not competent where the purpose is to detect the third class of errors. It is conceivable that the board of education may be as much interested in concealing such entries as any officer having to do with the funds of the city school district.

[124] Washington, Code of Public Instruction, Section 91.

statement of all receipts and expenditures be published in a newspaper.[125] In one instance it is required that the name of each claimant, the nature of the claim, the amount claimed, and the amount allowed be published.[126] Where such provisions obtain, the general public becomes the real auditor of accounts.

It has already been noted that in not a few instances special or separate funds are provided for specific purposes, and that money expended for such purposes may be charged only to the fund established or purposes for which such expenditures were made. Reports are quite generally required, and in a few instances the form in which they are to be rendered is prescribed.[127] Such provisions may in a measure take the place of one important feature of accounting. Where satisfactory provisions of this kind are practicable, a system of auditing which will make impossible illegal expenditures and improper charges should accomplish fairly satisfactory results. It is doubtful, however, if there is any satisfactory substitute for a complete system of accounts established and conducted under the direction of a competent accountant.

Pre-auditing and after-auditing. There are two systems of auditing which are generally recognized: the one is known as pre-auditing, the other as after-auditing or, simply, auditing. The first involves auditing claims before they may be paid; the second involves examining the whole account after it has been paid and determining if all the conditions of payment have been complied with, and the rejection of the account if they have not. The two systems are sometimes employed together. The pre-audit system is sufficient to guarantee that claims subject to such audit shall be paid only when all conditions involved are complied with; but it appears that with this system alone it is quite possible for the custodian of funds so to manipulate his accounts as to enable himself to perpetrate frauds not easily detected. On the other hand, this system makes the responsibilities of such officer much lighter. This is the system of auditing most commonly provided for in connection with the city school district.

---

[125] Michigan, Charter, Cities of the fourth class, Revision of 1907, p. 121.

[126] New York, Chapter 304, Laws 1899, Oswego.

[127] New York, Chapter 452, Laws of 1908.
New York, Chapter 370, Laws of 1895.

Provisions for pre-auditing. Where the system of pre-audits obtains, it is usually provided that the city auditor or controller shall audit all claims against the city school district. Sometimes warrants drawn upon the treasurer of such district must bear the signature of the mayor, and sometimes the signatures of both the auditor and the mayor. In the city school district of San Francisco, and quite generally in California, the city auditor is required to approve all warrants drawn upon the treasurer of the city school district before they may be paid.[128] In the city school districts of Lynn, Holyoke, and others in Massachusetts, all resolutions of the board of education involving the expenditure of money must be presented to the mayor for his approval.[129] In the case of Chicago, both the mayor and the controller must countersign all warrants drawn againt the school fund before they may be paid by the treasurer.[130] Not infrequently it is provided that any objection imposed by such auditing authority against the payment of any warrant may be overruled by the board of education. Thus, in the case of the city school district of Los Angeles, "Any demand returned to the board of education, ... with the objection of the auditor, shall again be considered by such board, and if such demand be again approved, as required in the first instance, the objections of the said auditor shall thereby be overruled."[131] The board of education for the city school district of Lynn may, by a two-thirds vote, overrule the action of the mayor vetoing any resolution involving the expenditure of money. In New Jersey, it is provided that in case the auditor is in doubt he may return a warrant to the board of education, and, if the board approves by a majority vote, the auditor shall countersign it and the treasurer shall honor the claim.[132]

Provisions for after-auditing. An after-audit system is provided for in at least seven states, either for some or for all of the city school districts within their borders. In no two of these are the systems alike. In Texas all accounts must be sent to the

[128] San Francisco, Charter, p. 106, Chapter 111, Section 10.
Los Angeles, Charter, p. 80, Section 216.
[129] Massachusetts, Chapter 367, Laws 1900.
[130] Illinois, School Law, 1906, p. 103, Section 26.
[131] Los Angeles, Charter, 1905, p. 79, Section 214.
[132] New Jersey, School Law, 1905, p. 21, Section 62.

State Superintendent of Public Instruction, who examines them and then forwards a copy to the commissioner's court, which passes upon them as in case of other treasurer's reports.[133] In Washington the county superintendent is required to examine and check all the accounts and to report to the county commissioners "the nature and state of said accounts and any facts that may be required concerning said records.[134]

In Indiana the board of education for any school district having a population of fifty thousand or under is required to submit to the county commissioners annually, and as much oftener as may be required, a full report made out in accordance with a form prescribed by law. The board of commissioners is required to hold a special session for the purpose of receiving such report. The board of education must present with its report and "file a detailed account current of the receipts and payments for the year, and support the same by proper vouchers; which report and account current shall each be duly verified by affidavit; and when the said county commissioners are satisfied that said report is full, accurate, and right in all respects, and that said account is just and true, they shall allow and pass the same."[135] In Ohio the treasurer for any school district is required to settle annually with the county auditor who audits all the vouchers and accounts. The county auditor is required, if he find everything correct, to issue a certificate which is prima facie a discharge of the treasurer from further accountability.[136] A provision very similar to this is found in Missouri, applicable to all city school districts having a population under one hundred thousand; only that in this instance the settlement is with the clerk of the county court.[137]

Where the city school district is provided for within the city corporation as any other department of the city government, its accounts are subject to the same system of audits as other accounts of the city. In the case of the city of New York it is provided that the board of education shall administer all moneys

[133] Texas School Laws, 1907, p. 18, Section 49–50.

[134] Washington, School-Laws, 1907, p. 41, Section 91.

[135] Indiana, School Laws, 1907, p. 118, Section 130; see also p. 124, pp. 106 and 107.

[136] Ohio, School Laws, 1906, pp. 159–160, Sections, 4044–4047.

[137] Missouri, School Laws, 1907, p. 82, Section 9871.

appropriated or available for educational purposes in the city, subject to the general provisions of the charter relating to the audit and payment of salaries and other claims by the finance department. The board of education is authorized to appoint one or more auditors; but the duties of such officers are not prescribed.

Expert accountants. The following provision found in the charter of the board of education of the city of St. Louis appears to contemplate a complete system of accounting such as is probably not contemplated in any other instance.[138] "The Board shall appoint a competent person as auditor, who shall serve for a term of four years and give bond in the sum of ten thousand dollars. His salary shall not be reduced during the term of his office, and he may be removed for cause by a two-thirds vote of the entire Board. He shall be the general accountant of the Board, and preserve in his office all accounts, vouchers and contracts pertaining to school affairs. It shall be his duty to examine and audit all accounts and demands against the Board, and to certify their correctness to the Secretary and Treasurer of the Board. He shall adopt a proper system of double-entry bookkeeping. He shall require settlement of accounts to be verified by affidavit whenever he thinks proper, and shall keep the accounts of the school in a systematic and orderly manner. No claim or demand shall be audited unless it is authorized by law and the rules of the Board, and be in a proper and fully itemized form, and unless the amount required for the payment of the same shall have heretofore been appropriated by the Board."

This provision involves several important features not commonly found. It contemplates that specific appropriations shall be made by the board of education; it contemplates a complete system of accounts in charge of an expert accountant with a tenure of office reasonably secure; it vests in this accountant power to require that accounts be verified by affidavit.

In the case of city school districts of the first class in Indiana, it is provided that at the close of each year ending June 30 the mayor of the city shall appoint one or more expert accountants, who shall examine the books, accounts, and vouchers of the

[138] This statement is not intended to apply to those city school districts which are subject to the same systems of accounting as the city, with no special provisions applicable exclusively to the former. These have not been carefully examined.

director, the treasurer, and all other departments of expenditure of the board of education. All the officers and employees of the board of education are required to submit all books, papers, documents, vouchers and accounts in their offices belonging or pertaining to such offices, and to assist the accountant or accountants in their work. The accountants are required to make a report to the mayor and the board of education, and may make any recommendations they deem proper as to the business methods of the officers and employees whose accounts they have examined. There are provisions also with regard to the matter of appropriations to be made by the board of education and for a pre-audit system under the direction of the city controller. It does not appear, however, that any officer is vested with power to establish or to conduct a complete system of accounts, though the provisions for the auditing of accounts appear to be quite complete.

Recent provisions in Pennsylvania. The legislature of the state of Pennsylvania has just enacted (April, 1909) a complete school code in which provisions are made for four classes of city school districts. Auditors of school accounts are provided for in the case of each class. In the case of city school districts of the first class, the board of education is required annually to elect the controller of the city as school controller. A system of pre-audit is provided for. While it is not specifically prescribed that the controller shall be responsible for a complete system of accounts, his various duties prescribed would appear to involve this. In the case of the city school districts of the second and third classes, provision is made for two school auditors to be appointed by the Court of Common Pleas of the county in which such districts are located. In all school districts of the fourth class, the school accounts are to be audited by the proper borough or township auditors. The duties of these auditors are prescribed, and they are given sufficient authority to enable them to make a thorough and complete audit. Their duties appear to be limited, however, to the matter of auditing. They are required to meet annually with the board of directors on the first Monday of July and carefully audit and adjust the financial accounts of the school district for the preceding school year. They are required to make a careful statement of the finances, a summary of which must be published in a newspaper having general cir-

culation in the district once a week for three successive weeks, beginning the first week after filing the same.

Inadequacy of provisions. It would seem that the matter of accounting is of sufficient importance to merit the services of experts vested with authority to institute and conduct a proper system of accounts for each city school district. It is doubtful if such experts should in any way be dependent upon the board of education for their appointment. Provisions for auditing school accounts, however complete, do not meet all the requirements. The information to be derived from a system of auditing merely, however important, is still of a negative character. It would appear that the time has come when information of a constructive and somewhat more uniform character should be demanded of all city school districts. It is suggested that here lies a field for further centralization which can prove only helpful both to the city school districts and to the state. New York and Indiana have taken certain steps in the direction of state control over the accounts of various local units. It is not clear as to just what these provisions involve or if the city school district is to be affected by them. In general, it is probably true that in no other field of legislation affecting the city school district are the measures enacted less complete and less constructive.

CHAPTER III

SOME OBSERVATIONS AND CONCLUSIONS

In practically all the states, whether the district, the township, or the county obtains as the distinctive unit of school organization, there is to be found a greater or less number of school districts with an organization more or less independent of these and usually more complex.

These school districts are known by different names, but, inasmuch as each one contains within its limits a city or other aggregation of people living within a comparatively small area, they may be appropriately called city school districts.

The city school district is purely a creature of the state, created by its legislative assembly for the more convenient administration of public education within the corporate limits of the city. The city as a city has nothing to do with public education. Public education is a function of the state.

In the absence of constitutional provisions, the state may make such provisions for public education within the city as it thinks best; it may provide such agencies for its administration as it deems expedient; it may vest authority for this purpose where it will.

The state may make broad and generous provisions for public education, providing for all kinds of schools from kindergarten to university, including a great variety of special schools; it may make the city authorities its agents for the administration of all kinds of public education within the limits of the city school district; it may make city authorities its agents for the discharge of certain functions in connection with the city school district, and it may require township, county, or state officers to discharge certain other functions. Further, the state may create special authorities exclusively for the administration of public education within the city school district and vest them with any or all of the powers necessary for this purpose.

The state has made wide use of its powers in this direction. It has made provisions for a great variety of agents for the administration of public education within the city school district.

It has both created new agencies exclusively for this purpose and required other agencies, created primarily for the administration of other than educational affairs, to discharge important functions in this connection. City, township, county, and state officers are required in a great variety of instances to discharge important functions in connection with the administration of public education within the city school district. More commonly, however, the more important functions are discharged by officers provided by the state exclusively for this purpose.

The state may exercise such control over the administration of public education within the city school district as it pleases, and in any way that it thinks best or deems most effective. It may grant the city school district wide powers and permit it to exercise such powers free from all further interference, or it may grant it only very limited powers and thus exercise a very detailed legislative control. The latter method is the more common one in the United States, though there are some more or less important exceptions.

Further, the state may grant to the authorities of the city school district very wide powers and then provide an efficient central administrative control under which such powers shall be exercised. This method obtains in Great Britain and in certain countries of continental Europe. This may be regarded as the most efficient method, and it is probably impossible, generally speaking, to secure good and efficient administration of public education in the city school district in any other way. The central administrative control should be potential rather than actual, and hence expert administrators are required.

Originally, the state provided for the city school district by special laws enacted by its legislative assembly. This led to many abuses. About the middle of the nineteenth century provisions began to be inserted in the state constitutions prohibiting the enactment of special laws, with the result that in a great majority of the states the city school districts are now being provided for by general laws. The chief advantage of general legislation as opposed to special legislation is that the former tends to do away with minute and detailed legislative control over the city school district, and to give to it a larger degree of freedom in the administration of education within its corporate limits. This appears to be a step in the right direction, but it is only a

step. Public education is a function of the state, and it may be seriously doubted if the state should relinquish any of its control over its administration. Exclusive legislative control is bad, but perhaps it is better than no control at all. Whenever the state relinquishes legislative control over the city school district it should provide an efficient administrative control to take its place.

In the organization of the city school district, except in the case of a single city, the board of education occupies the most important position. Further, it would appear that the position of the board of education in the organization of the city school district is becoming of more rather than of less general importance.

In the larger city school districts executive functions are quite commonly discharged by special executive officers, who possess in some instances large powers more or less independent of the board of education. More commonly, however, such officers act under the direction or with the approval of such board.

There is a decided tendency towards reducing the number of members in the board of education. In some instances the board is left little power not of a legislative character. There appears to be a tendency to require those officers commonly regarded as city officers to discharge more and more of the non-professional functions in connection with the city school district. In the discharge of these functions such officers commonly act, however, under the direction or with the approval of the board of education. It may be said that, while the board of education is in not a few instances being gradually limited as to its executive powers, it does not appear that its functions as a legislative body are being in any way impaired.

It is quite the common practice to provide for funds for the city school district under the more or less exclusive control of the board of education. In a large number of states the amount of funds which the board of education for the respective city school districts may raise by taxation is practically unlimited. Where this is not the case, with comparatively few exceptions, a minimum amount of funds is provided for under the exclusive control of such board. The number of instances where the amount of funds to be derived from local taxation for the support of public education within the city school district is determined by

other authorities than the board of education is comparatively small.

The tendency appears to be to make the city school district more uniformly independent with regard to the matter of providing funds for the support of public education within its limits. This is not so, at least in the same degree, with regard to funds for schoolhouse construction and other permanent improvements. It is quite a common practice to raise funds for such purposes by issuing bonds. While the funds derived from this source are normally placed under the more or less exclusive control of the board of education, functions pertaining to the issuing of the bonds and providing for their payment are commonly discharged by other authorities than the board of education.

There is a tendency to recognize the fact that interest on daily balances of the unappropriated funds of the city school district may be made a source of revenue for such district. This fact deserves to be more generally recognized, for various and obvious reasons.

In no instance do there appear to be wholly adequate provisions for a system of accounting. In comparatively few instances are the provisions made for auditing entirely adequate. Abundant provision is made for pre-auditing of the school accounts, but this is not true with regard to after-auditing.

There is probably nothing pertaining to the city school district with regard to which the state can accomplish more of advantage both to such district and to the state than to devise and to place in operation a complete and uniform system of accounting applicable to all city school districts within its limits.

BIBLIOGRAPHY

Naturally, the chief sources of material for this study have been the legislative enactments by the various state legislatures. These enactments consist of two kinds of laws, commonly known as general and special laws respectively.

For the most part the special enactments are published only in the session laws of each legislature, and are not easily accessible. The only library in the city of New York which contains all these laws up to date is that of the Association of the Bar. The use of this library for a limited period was granted the author by a resolution of the Executive Committee of the Association, through the special kindness of Professor Frank J. Goodnow of Columbia University. The Lenox Library and the Library of Columbia University contain many of the earlier session laws, but in the case of those of the later years they are limited to only a very few states. Where the laws applicable to the city school district constitute a part of the organic act incorporating the city, commonly known as the city charter, they are sometimes made accessible through the publication of such charter by the city. More frequently, however, such special charters contain few or no references to the schools. In some instances the laws applicable to the city school district are published in connection with the by-laws and the rules and regulations of the board of education. But in such cases they are usually very fragmentary. In Illinois they are published with the general school laws. It will be found more practicable, therefore, not to depend upon such sources, but to seek access to the session laws and depend entirely upon these in a study of this kind. This will not appeal to one who is acquainted with these laws as very encouraging advice. Nevertheless, the author is quite certain that in the end it will be found that much time can be saved in this way. It is sometimes necessary to trace laws back for more than a half century, through innumerable amendments and revisions, before all the facts desired can be found. In the case of the city school district of Utica, New York, the organic act dates back to 1842, and no one knows how many are the amendments and revisions made since that date. The special charter of the city of Rochester,

enacted in 1907, in which provision is made for the public schools, repeals by reference 337 special laws, all enacted during the period from 1834 to 1907. During this period, only in 1845, 1858, and 1859 were there no acts passed by the state legislature applicable to this city. Unfortunately, too few cities appear to be able to secure so complete a revision of their laws.

The general laws are usually compiled and published by the different states at varying intervals and are thus made reasonably accessible; though in many cases the editions available are too old to be of very great value. In a number of states the general laws applicable to the city school districts within their borders are published in connection with the regular school laws, though these commonly are not sufficiently complete to be of much value except where they may be supplemented by reference to the complete statutes. Hence also in the case of general laws time will be saved by depending primarily upon the session laws, except where late editions of the compiled statutes are available.

In the bibliography which follows no mention is made of the state constitutions and laws, nor for the most part of the numerous reports and general magazine articles consulted. It is believed that the references made in foot-notes will enable the reader to reach practically all the sources from which material for this study has been drawn. For the most part the volumes making up this bibliography deal primarily with municipal government in general, administrative law and legislation, though many of them contain chapters on matters pertaining specifically to educational affairs.

1. Benthley, H. C., Corporation Finance and Accounting. (New York, 1908.)
2. Blair, Francis G., The Illinois Educational Commission, 1908. (Springfield, Illinois, 1908.)
3. Bowman, Harold Martin, The Administration of Iowa: A Study in Centralization. (Dissertation, Columbia University, 1903.)
4. Bramhall, Frederick D., Index of Legislation, 1907. (New York State Library, Albany.)
5. Clow, Frederick Redmon, Suggestions for the Study of Municipal Finances. (In *Quarterly Journal of Economics,* vol. 10, 1895-6.)
6. Clow, Frederick Redmon, A Comparative Study of the Administration of City Finances in the United States with special Reference to the Budget. (In *Publications of the American Economic Association,* 3d series, vol. II, No. 4.)

7. Cockcoft, James, The American and English Encyclopedia of Law, second edition, vol. XX. (Northport, 1902.)
8. Cole, William Morse, Accounts their Construction and Interpretation. (Boston, 1908.)
9. Conkling, Alfred R., City Government in the United States. (New York, 1895.)
10. Cubberley, Ellwood P., School Funds and Their Apportionment. Teachers College Contributions to Education, No. 2, 1905
11. Dealey, James Q., General Tendencies in State Constitutions. (In *American Political Science Review*, vol. I.)
12. Dicksee, L. R., Auditing. American Edition. (New York, 1905.)
13. Dillon, John F. Commentaries on the Law of Municipal Corporations. (4th Edition, Boston, 1890.)
14. Draper, Andrew S., The Legal Status of the Public Schools. (In Report of Superintendent of Public Instruction, New York, 1890.)
15. Draper, Andrew S., School Administration in Large Cities. (In Report of Superintendent of Public Instruction, New York, 1890.)
16. Dutton and Snedden, The Administration of Public Education in the United States. (New York, 1908.)
17. Eaton, Dorman B., The Government of Municipalities. (New York.)
18. Elliott, Edward C., Legislation and Judicial Decisions Relating to Public Education, October 1, 1904, to October 1, 1906. (Bureau of Education, Bulletin No. 3, 1906, 2d Edition, Washington, 1907.)
19. Elliott, Edward C., Legislation and Judicial Decisions Relating to Public Education, October 1, 1906, to October 1, 1908. (Bureau of Education, Bulletin No. 7, 1908, Washington, 1909.)
20. Fairchild, E. T., Report of the Kansas Educational Commission, 1908. (Topeka, 1908.)
21. Fairlie, John Archibald, Municipal Administration. (New York, 1901.)
22. Fairlie, John Archibald, Local Government in Counties, Towns and Villages. (New York, 1906.)
23. Fairlie, John Archibald, Essays on Municipal Administration. (New York, 1908.)
24. Fairlie, John Archibald, The Centralization of Administration in New York State. (Dissertation, Columbia University, 1898.)
25. Garland, James S., New England Town Law. (Boston, 1906.)
26. Goodnow, Frank J., Municipal Home Rule: A Study in Administration. (New York, 1895.)
27. Goodnow, Frank J., Municipal Problems. (Columbia University Press, 1898.)
28. Goodnow, Frank J., Comparative Administrative Law: An Analysis of the Administrative Systems, National and Local, of the United States, England, France and Germany. (New York, 1903.)
29. Goodnow, Frank J., City Government in the United States. (New York, 1904.)

30. Goodnow, Frank J., The Principles of the Administrative Law of the United States.
31. Goodnow, Frank J., Selected Cases on Government and Administration. (Chicago, 1906.)
32. Haskins, Charles Waldo, Business Education and Accountancy. (New York, 1904.)
33. Hatfield, Henry Rand, Modern Accounting, its Principles and some of its Problems. (New York, 1909.)
34. Hatton, A. R., Digest of City Charters. (Chicago, 1906.)
35. James, George F., Report of the Educational Commission of the City of Chicago. (Chicago, 1898.)
36. Janes, L. G., The Problem of City Government. (New York, 1892.)
37. Keister, D. A., Corporation Accounting and Auditing. Eleventh Edition. (Cleveland, 1905.)
38. Lester, Clarence B., Digest of Governors Messages, 1908. (New York State Library, Albany.)
39. Moses, Bernard, The Government of the United States. (New York, 1906.)
40. Orth, Samuel P., Centralization in Administration in Ohio. (Dissertation, Columbia University, 1896.)
41. Palmer, John, The Convention Manual for the Sixth New York State Constitutional Convention, 1894. (Albany, 1894.)
42. Pixley, F. W., Auditors, their Duties and Responsibilities. I. Chapter XIII, Ninth Edition. (London, 1906.)
43. Rawles, William A., Centralization Tendencies in the Administration of Indiana. (Dissertation, Columbia University, 1903.)
44. Reinsch, Paul S., American Legislatures and Legislative Methods. (New York, 1907.)
45. Riggs, John F., Report of the Educational Commission of Iowa, 1908. (Des Moines, 1908.)
46. Rollins, Frank, School Administration in Municipal Government. (In Columbia University Contributions to Philosophy, vol. II.)
47. Rowe, L. S., Educational Finances, the Financial Relation of the Department of Education to the City Government. (In *Annals of the American Academy of Political Science,* vol. XV, March, 1900.)
48. Schaeffer, Nathan C., Report of the Pennsylvania Educational Commission, 1908. (Harrisburg, 1908.)
49. Shaw, Albert, Municipal Government in Great Britain. (New York, 1895.)
50. Shaw, Albert, Municipal Government in Continental Europe. (New York, 1897.)
51. Skinner, R. W., Constitutional Limitations relative to Cities and their Affairs. (In *Annals of the American Academy of Political and Social Science,* vol. 27, No. 1, January, 1906.)
52. Snedden and Allen, School Reports and School Efficiency. (New York, 1908.)

53. Sprague, C. E., The Philosophy of Accounts. (New York, 1908.)
54. Steffens, Lincoln, The Shame of the Cities. (New York, 1905.)
55. Stimson, Frederic Jesup, American Constitutional Law—the Federal and State Constitutions. (Boston, 1908.)
56. Wilcox, Delos F., The American City: A Problem in Democracy. (New York, 1904.)
57. Wilcox, Delos F., Municipal Government in Michigan and Ohio: A Study of Relations of the City and Commonwealth. (Dissertation, Columbia University, 1896.)
58. Woodruff, Clinton Rodgers, Proceedings of Conferences for Good City Government, National Municipal League.
59. Young, James T., The Administration of City Schools. (In *Annals of the American Academy of Political and Social Science,* vol. XV, March, 1900.)
60. Zeublin, Charles, American Municipal Progress. (New York, 1902.)
61. Zeublin, Charles, A Decade of Civic Development. (University of Chicago Press, 1905.)

VITA

HARRY ERWIN BARD, born near Crawfordsville, Indiana, August 22, 1867.

Common schools, Montgomery county, Indiana; Central high school, Canton, Ohio; Wabash College Preparatory School, Crawfordsville, Indiana; Student, Wabash College, Crawfordsville, Indiana, 1890-1894; Scholar, Union Theological Seminary, New York City, with courses in Columbia University, 1898-1901; Graduate student, Teachers College, Columbia University, second semester, 1907; Scholar, 1907-1908; Research Scholar, 1908-1909.

Diploma, Wabash College Preparatory School, 1890; Degree of Bachelor of Arts, Wabash College, 1894; Honorary Degree of Master of Arts, 1898; Diploma, Union Theological Seminary, 1901; Degree of Master of Arts, Columbia University, 1907; Master's Diploma, Teachers College, 1907.

Tutor, Latin, Wabash College, 1893-1894; Instructor, 1894-1895; Instructor, Greek and Latin, Adams Collegiate Institute, Adams, New York, 1895-1896; Principal, 1896-1898; Insular Government Service, Division Superintendent of Schools, Philippine Islands, July, 1901-December, 1906; Appointed Director General of Primary Instruction, Peru, South America, March, 1909.

7 463

14 DAY USE
RETURN TO DESK FROM WHICH BORROWED
EDUCATION - PSYCHOLOGY
LIBRARY
This book is due on the last date stamped below, or
on the date to which renewed.
Renewed books are subject to immediate recall.

7 DAY USE DURING	SUMMER SESSIONS
Ret'd BPD 5/1/67 MAY 1 RECD	
DEC 13 1970	
DEC 7 REC'D -6 PM	

LD 21A–15m-4,'63
(D6471s10)476

General Library
University of California
Berkeley

U.C. BERKELEY LIBRARIES
C031683470